



## **EASTERN CREEK WASTE AND RECYCLING CENTRE**

**APPLICATION UNDER S.96(2) OF THE *ENVIRONMENTAL  
PLANNING AND ASSESSMENT ACT 1979* TO MODIFY THE  
MINISTERS CONSENT NO. S29/19 (2 JULY 1996):**

**WORKSHOP BUILDING AND EXTENSION OF GREEN WASTE  
PLATFORM AREA**

***STATEMENT OF ENVIRONMENTAL EFFECTS***

**26 March 2010**

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## 1.0 INTRODUCTION

WSN Environmental Solutions (**WSN**) operates the Eastern Creek Waste & Recycling Centre (**WRC**) located off Wallgrove Road, Eastern Creek on land partially owned by Department of Planning (**the Department**) and partially owned by WSN. As consented, the Eastern Creek Green Waste Facility (**the facility**) operates within the greater Eastern Creek site on Lot 2, DP 1073820. This lot incorporates land leased from the Department and sub-leased by WSN to Australian Native Landscapes (**ANL**) the operator of the facility. In its current configuration, the facility also occurs partially on Lot 11, DP 1048435, land in the ownership of WSN.

The Facility operates under the Minister's development consent no. SEPP29/19 dated 2 July 1996 as modified on 12 October 1997, 17 November 2004 and 6 July 2007.

Condition 4 of this consent reads:

*"The facility is to be restricted to the designated 3.5 hectare site in the first stage and the final stage of the development involving a second additional 2.2 hectare site, as per the plans contained in the Eastern Creek Waste Processing Facility EIS, July 1995. Any further expansion of the development site will require separate development consent."*

The footprint of the facility has extended beyond its originally approved 5.7 ha limit and now covers a total area of 6.65 hectares. The extended area supports a workshop shed, a refuelling bay, water tanks and minor encroachments of existing stockpiles. This application seeks to modify Consent S29/19 under S.96(2) of the *Environmental Planning and Assessment Act, 1979 (the Act)* to provide for extension of the greenwaste facility footprint and to allow the operations that are not subject to the existing consents.

## 2.0 SITE PARTICULARS (Figures 1 & 2)

The Eastern Creek WRC is located on part of Lot 1 and 2 DP1073820, Lot 11 DP1048435, Lot 2 DP1059698 and Lot 12 DP1049029 off Wallgrove Road, Eastern Creek. Lot 11 DP1048435 and Lot 2 DP1059698 in the south is owned by WSN, while the remainder of the site is leased from the NSW Department of Planning (refer Figure 1).

The Eastern Creek WRC is located off Wallgrove Road, Eastern Creek, within the Blacktown Local Government Area (LGA).

Completed landfill Areas 1 to 4, are located on the western side of Eastern Creek WRC within the area known as Eastern Creek 1. Eastern Creek 2 landfill is divided into areas referred to as the 'Southern Cells' and the 'Northern Cells' (cells 4, 6 and 7). Landfilling operations are now complete at the Southern Cells, with rehabilitation works currently planned. Landfill operations are currently carried out at the 'Northern Cells'.

In addition WSN also operates a leachate treatment plant, subleases to Energy Developments Ltd (**EDL**) who operate a landfill to gas power plant situated at the Wallgrove Road entrance to the site and also operates their own landfill gas power plant in conjunction with Landfill Management Services Pty (**LMS**). Figure 2 shows an aerial view of the facilities at the site and surrounds.

The Green Waste Processing Facility is located within the area known as Eastern Creek 1. Under the current consent it operates on Lot 2, DP 1073820. A survey of the Green Waste Processing Facility is contained in Figure 3.

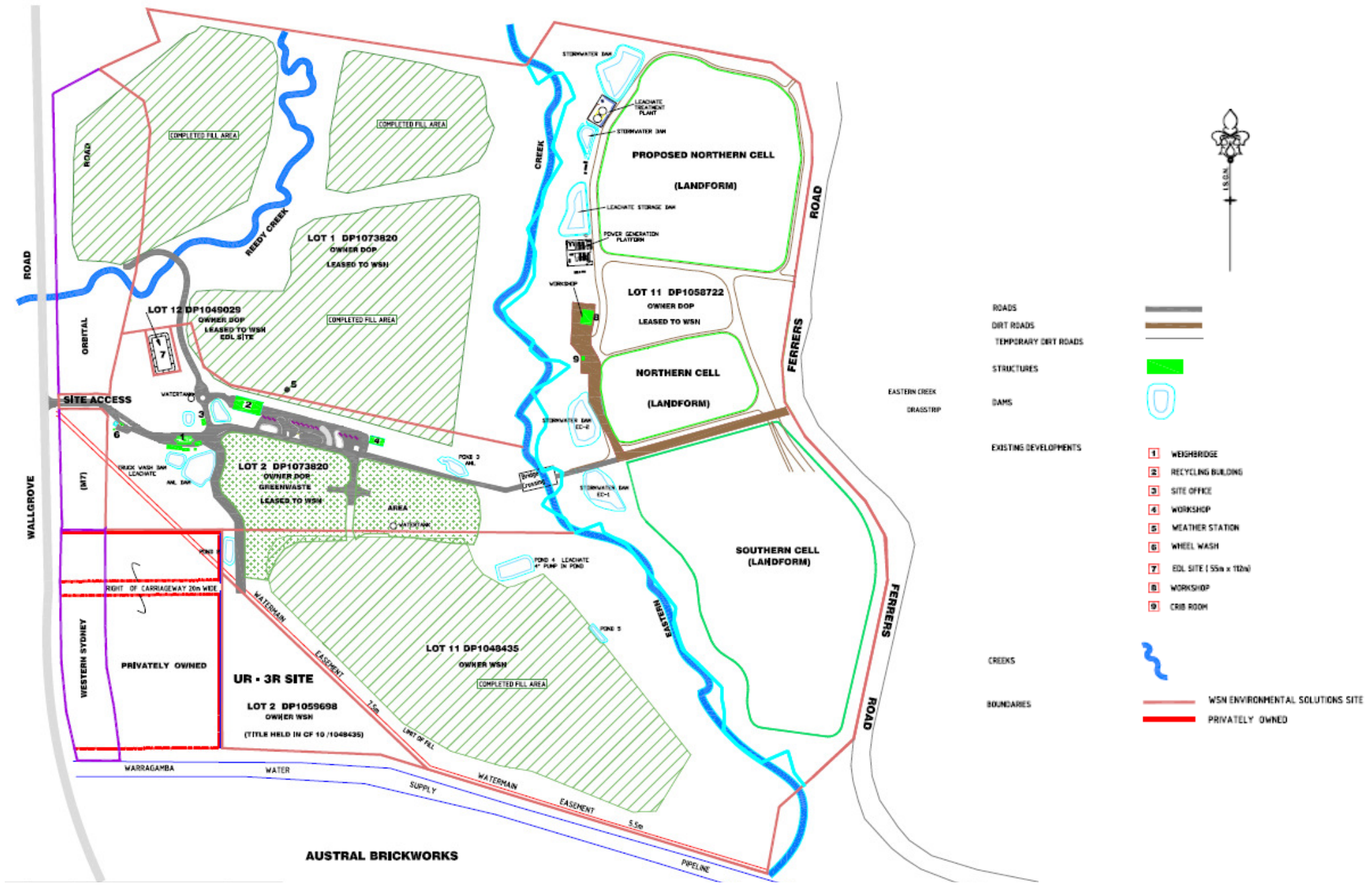


Figure 1: Site Plan and Cadastral information (Subject Site stippled green)  
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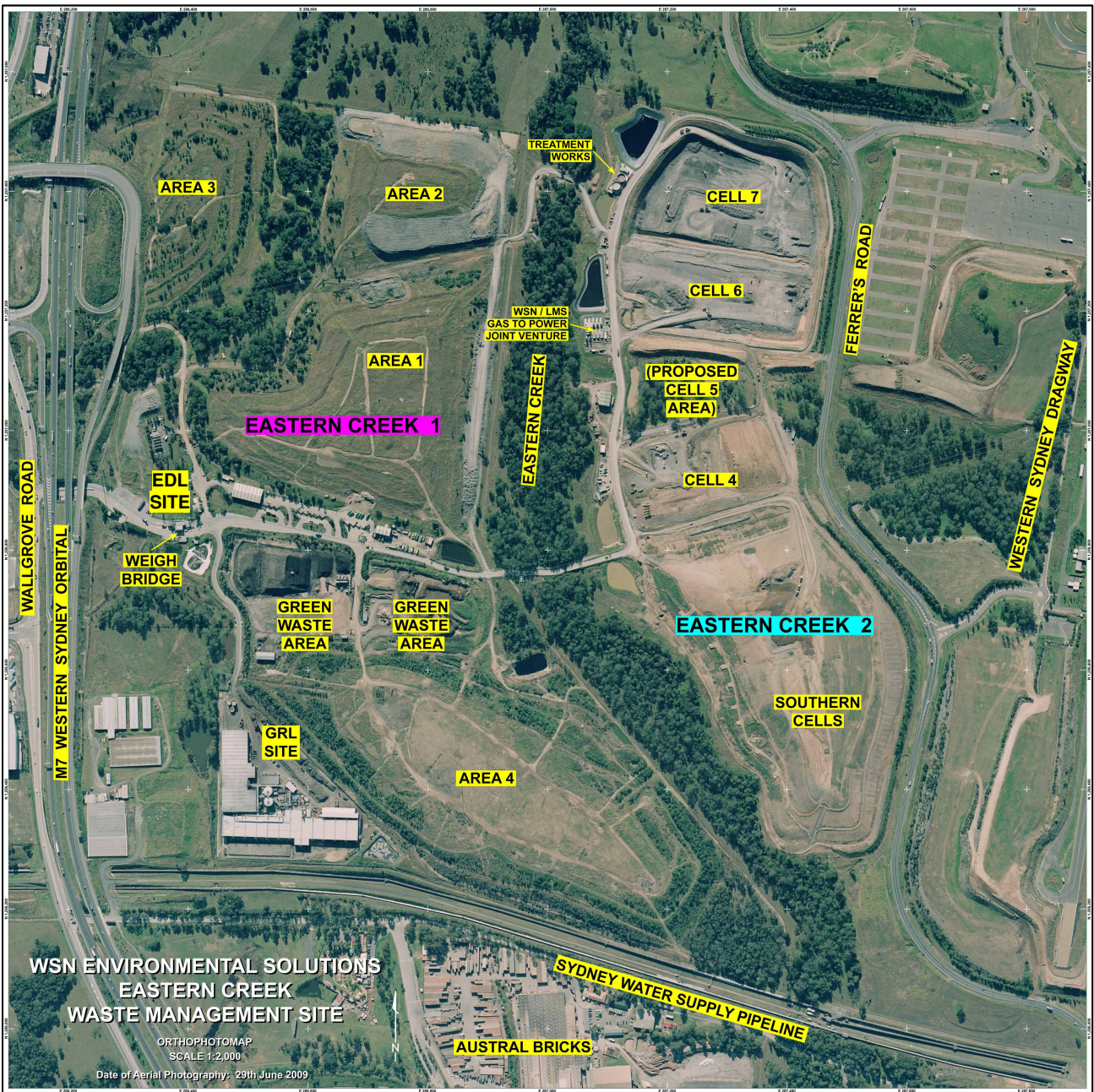


Figure 2: Eastern Creek Site Plan and Surrounds

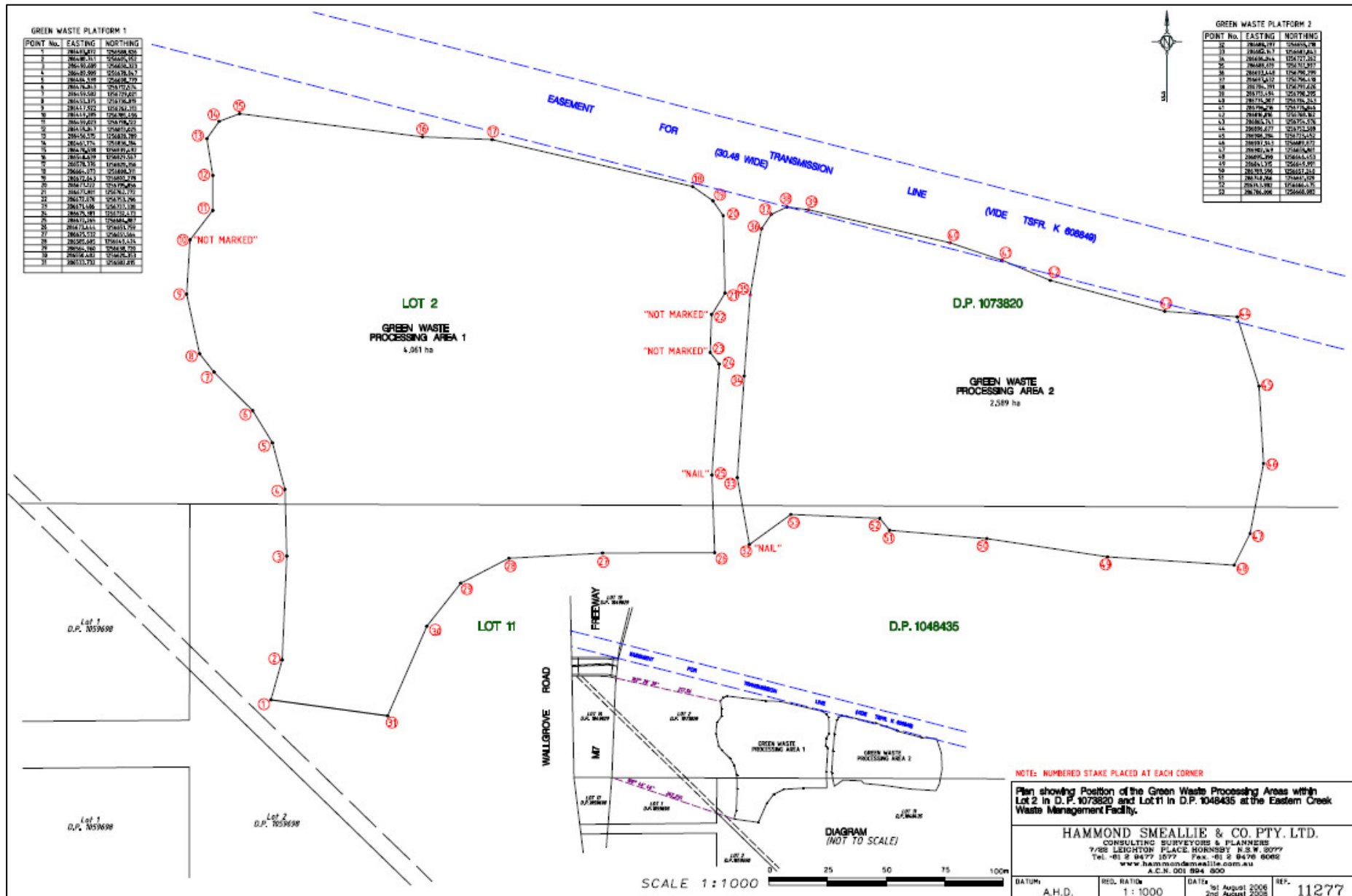


Figure 3: Site Survey of Greenwaste platforms)

### 3.0 CONSENT HISTORY

The following consent and modifications are of relevance to this application:

- Original Consent – Minister’s approval, S29/19 (2 June 1996), for development of a green waste processing facility.
- Modification to add a ‘Trial Aerated Static Pile Facility’ (S29/19-mod; 12 October 1997)
- Modification to expand the capacity of the existing green waste processing facility, including an increase in tonnages, upgrade works, replacement of administration buildings, establishment of vehicle parking and changes to stockpile configurations (MOD-94-9-2003i; 17 November 2004)
- Modification to modify the hours of operation of the green waste processing facility (MOD-53-6-2007i; 6 July 2007)

The **original consent (SEPP29/19, dated 2 June 1996)**, approved the development of a greenwaste processing facility, including:

- Construction of two platforms with sufficient area to accommodate receipt, shredding, composting, stockpiling and dispatching of greenwaste.
- Approval to handle up to 50,000 tonnes of greenwaste per year.
- Operations to initially occur on the western platform (with a site area of 3.5 hectares), with the eastern platform (site area of 2.2 hectares) earmarked for future expansion (refer Figure 4).

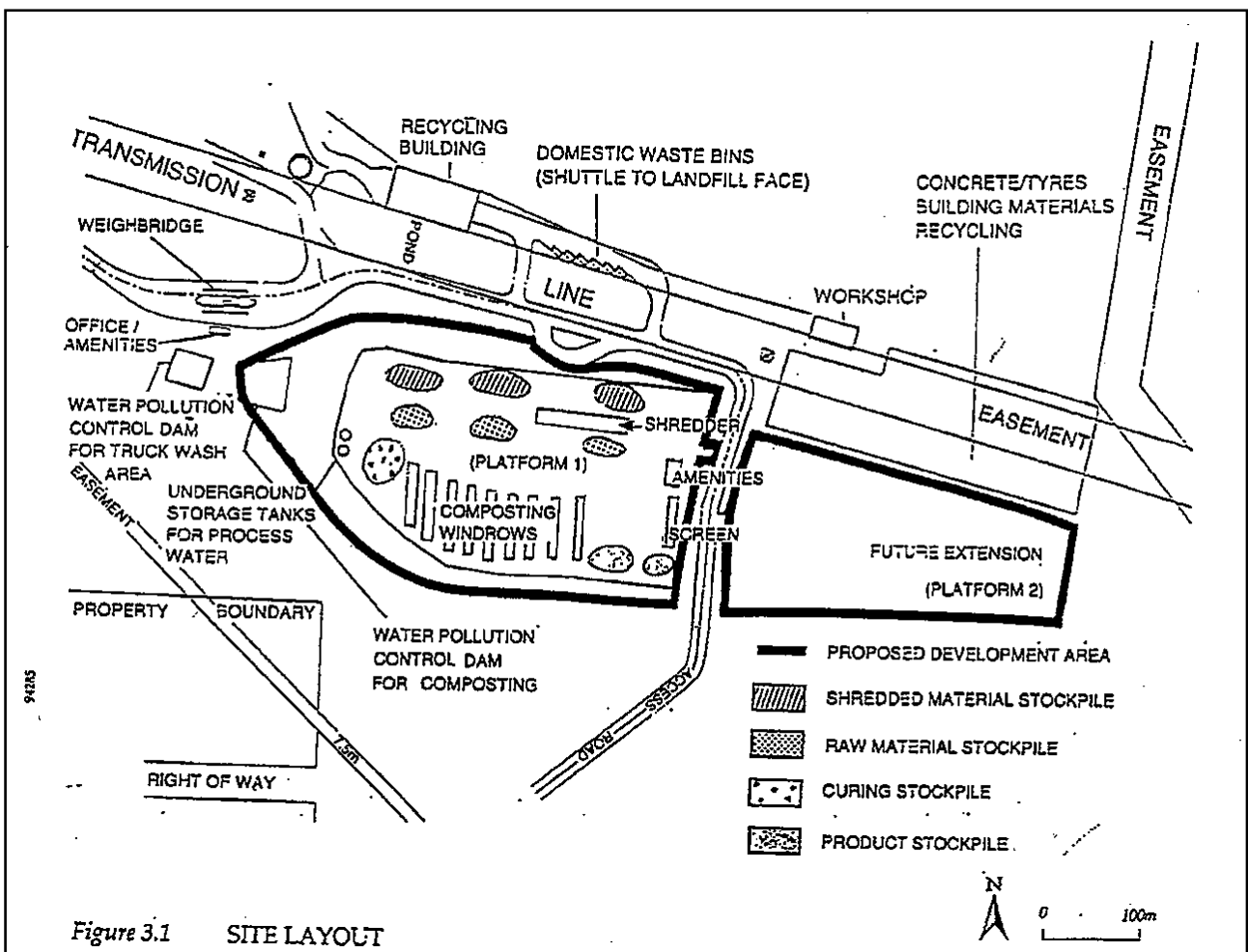


Figure 3.1 SITE LAYOUT

Figure 4: Site Layout as per consent no. S29/19 (2 June 1996)

Subsequently the site layout was altered via **MOD-94-9-2003i** (dated 17 November 2004). This modification approved the expansion of the greenwaste processing facility, including:

- An increase in accepted tonnages to 80,000 tonnes per annum;
- Major upgrade works which altered the site layout of the facility.
- A new portable building on the eastern platform (to replace the original administration building that was destroyed by fire in 2002).
- A vehicle parking and equipment maintenance area (on the western platform near the southern boundary of the site); and
- Changes to the stockpile configurations within the originally consented 5.7ha footprint (as illustrated below in Figures 5 and 6).

A copy of the site layout from the Statement of Environmental Effects, prepared by Mitchell McCotter for this modification is contained in Figures 5 and 6.

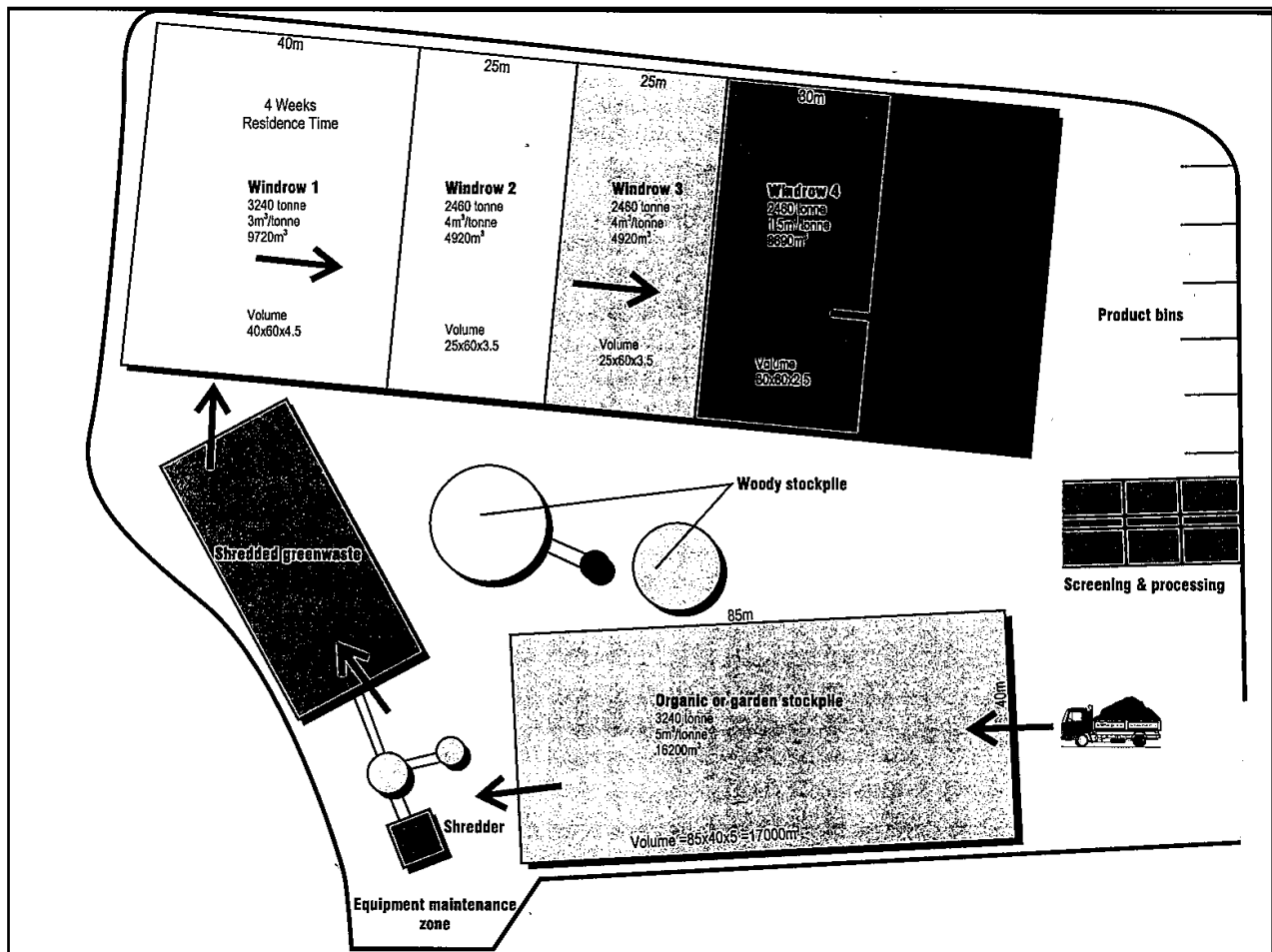


Figure 5: Western Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)



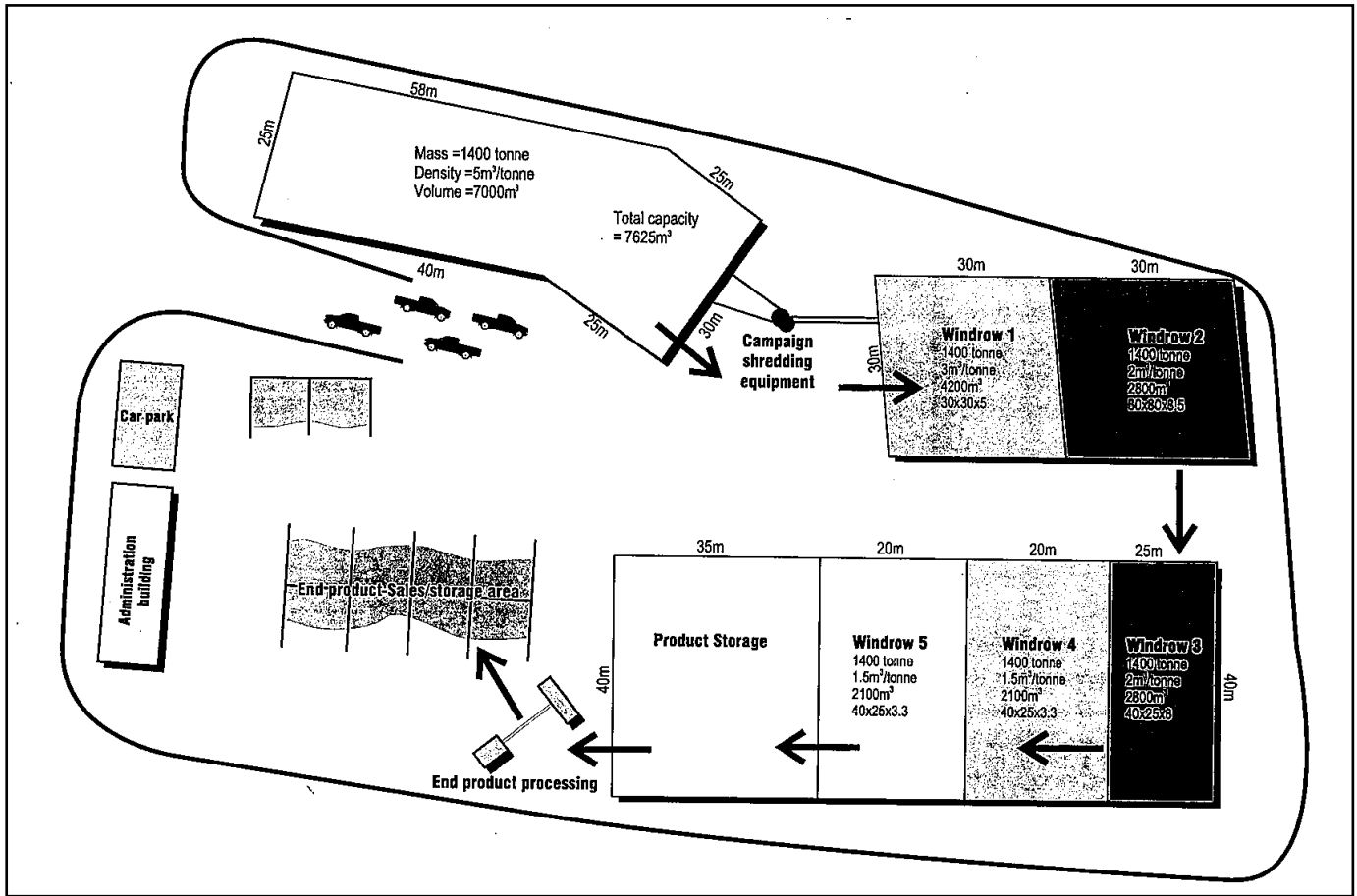


Figure 6: Eastern Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

#### 4.0 PROPOSED MODIFICATION

As approved the site occupies 5.7 hectares of closed former landfill area and consists of two platforms - the western platform (3.5 hectares) and the eastern platform (2.2 hectares), all within Lot 2 DP1073820.

The proposal seeks to modify Condition 4 of the original consent to allow for:

- the continued operation of the facility over a larger area beyond the 5.7 hectares consented by this condition (approval is sought for an extension of the area of the facility to the south onto Lot 11 DP 1048435, involving an addition of 0.95 hectares and resulting in a new total area of 6.65 hectares);
- an existing steel workshop building of dimensions 30m x 12m and 6m high on an extension to the western platform;
- sundry additional structures (an amenities building of dimensions 8.5m x 3m and 2.4m high, a refuelling bay and 3 4.4m diameter x 3m high water tanks); and
- Some minor encroachments of the eastern and western stockpile areas

The extended area will primarily encompass the unfilled land that previously formed a buffer between the approved greenwaste platform area and the Area 4 landfill. The new boundaries follow the natural landform, and are consistent with the contours that define the edge of the former Area 4 landfill

The proposal generally maintains the same layout and operations as previously approved in Modification No. MOD-94-9-2003i and as shown in figures 5 and 6. The

operations will be simply occurring on a slightly larger footprint than was originally approved.

The proposal will not result in any increase to production or input tonnages and no changes to current operations or management of the facility are proposed. The modified footprint will simply allow for more efficient operations to be carried out on site.

Figure 7 illustrates the existing approved area and the extension that is requested to be consented in this application.

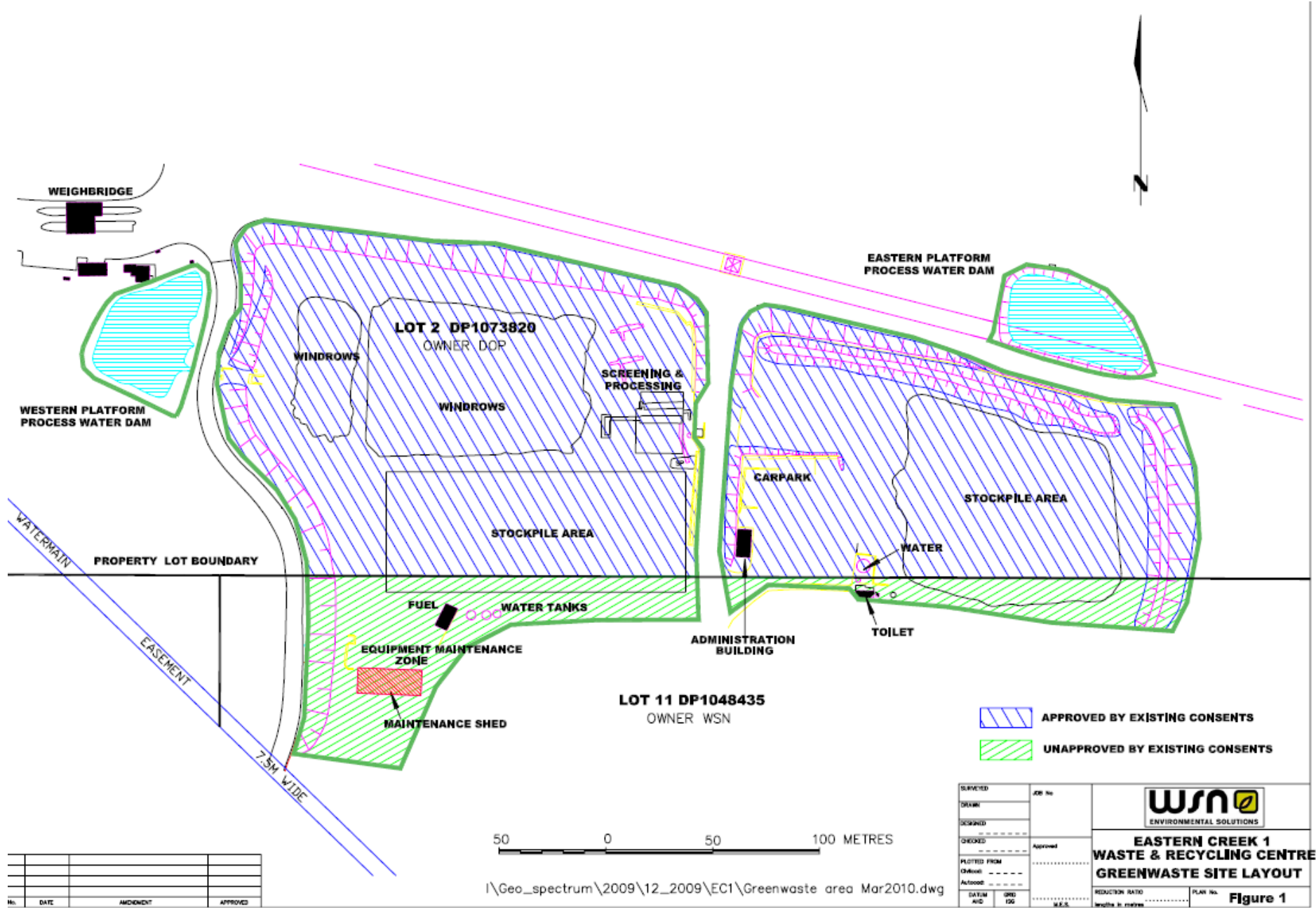


Figure 7: Existing approved area and proposed extension

## 5.0 JUSTIFICATION FOR THE PROPOSAL

In comparison with the existing consent regime, current operations at the Green Waste Processing facility are not materially changed by the modifications proposed in this application, notwithstanding that they occur over a marginally larger footprint than consented.

The marginal extension of the operational area of the facility has occurred on previously unused land that acted as a buffer to the landfill activities on the former Area 4 landfill (see Figure 1). When the Area 4 landfill was closed in 2002, the buffer became redundant and the use of the land for operational purposes became viable for the purposes of improving the efficiency of operations of the greenwaste facility. The land is unfilled, vacant and arguably of no value for other purposes within the current range of activities occurring on the greater Eastern Creek WRC site. For this reason, it is considered that extension of the greenwaste facility operations is an appropriate and acceptable use of the land.

In essence, the extended area supports activities that are adjunct to the operations of the greenwaste facility. These include:

- An equipment maintenance zone on the extension to the western platform, including the maintenance shed, vehicle manoeuvring area, refuelling facility and water tanks. This area is used exclusively for storage and maintenance of equipment used by the greenwaste facility (refer to photos 1 and 2).
- Minor portions of the western and eastern stockpiles; and
- The amenities block, also used exclusively by the greenwaste facility.

The extended configuration of the site is generally consistent with the currently approved site layout, (refer to figures 5, 6 and 7), arranged over a marginally extended site area the limits of which are essentially dictated by the finished contours of the Area 4 landfill, which forms a natural boundary to the new area.



*Photo 1: Maintenance Shed and Equipment Maintenance zone (Source: WSN)*



*Photo 2: Refuelling facility and water tanks (Source: WSN)*

Critically, the extension supports only facilities that were approved in the modified consent, located on stable, unfilled land that is suitable for construction and for heavy vehicular traffic. Moreover, the facility in its extended form receives no additional tonnage of processing materials over and above the current consent as modified.

Overall there will be no additional impact from the extension of the site area as the facility will generally maintain its current operational and management procedures.

When the above outcomes are taken into account in combination with the minimal environmental impacts identified in this Statement, it is considered that the proposed modification is justified.

## 6.0 PLANNING COMPLIANCE

This application has been prepared pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*. Section 96(2) permits the Consent Authority to modify a Consent after the consideration of the following:

1. Whether the modification will result in 'substantially the same development' as that originally approved; and
2. whether the development has acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

An assessment of the proposal under each of these points follows:

### 6.1 *Substantially the same development*

It is considered that the modification is substantially the same development as currently consented for the following reasons:

- the proposal is for the continued operation of the facility in the same manner as originally approved and the proposed increase in the site area and addition of the workshop shed will not alter the production capacity of the existing facility.
- the processes and management of the operations at the facility will remain the same as outlined in the original application for development consent as modified (consent No. s29/19 dated 2 June 1996 as modified on 17 November 2004 and 6 July 2007).
- The proposed modification is minor in nature and is not considered likely to result in any unacceptable environmental impacts.

#### 6.1.1 Extension of the development into another lot

The original consent applied to Lot Y in DP 376524, which became Lot 11 in DP 1049029 and subsequently Lot 2 in DP 107820, as it is currently known. An issue arises as to whether the consent applying to this lot can be modified to extend onto the allotment to the south (Lot 11 DP 1048435).

The following table provides a summary of the consents applying to the greenwaste facility and the relevant land descriptions.

Consent No.	Date	Consent for:	Lots in land description
S29/19	2 June 1996	Development of greenwaste facility	Lot Y DP376524
S29/19-mod	12 October 1997	Trial aerated static pile facility	n/a
Mod-94-9-2003i	17 November 2004	Expand capacity of facility. Including increase in tonnages, upgrade works, replacement of administration buildings, vehicle parking and changes to stockpile configuration	Lot 11 DP1049029 (formerly Lot Y DP376524) and Lot 11 DP1048435
Mod-53-3-2007i	6 July 2007	Modification to hours of operation	Lot 2 DP1073820 (formerly Lot11 DP1049029)

As noted in the table above the lot numbers as listed in the land description for the original consent and subsequent modifications vary. The lot where the increase in site area is proposed – Lot 11 DP1048435 – is listed in the modification consent for the expansion of the facilities capacity. In effect, therefore, the current consent as modified applies to both land parcels.

Notwithstanding this, the validity of the proposed extension being considered as a modification under section 96(2) is supported in a recent court appeal against the refusal of an application under section 96(2) to modify a development consent to expand the area of land used for the development approved by the consent [*Scrap Realty Pty Limited v Botany City Council* [2008] NSW LEC333 (19 Dec 2008)].

In this matter, the Court held that the consent authority has the power to modify a consent so that it applies to land additional to that to which the original consent applied provided that the consent authority is satisfied the modification will result in a development which is substantially the same as that which was originally consented.

The Commissioner commented that:

*As far as the condition precedent is concerned, the alteration is of “the development” – it expands the area on which development is carried out. There obviously will be questions of fact and degree in ascertaining whether the development before and after modification can be said to be substantially the same. Nevertheless, an expansion of the area on which development is carried out by adding land not the subject of the original consent is not inherently outside the concept of modification of the development under s.96. (Scrap Realty Pty Ltd v Botany City Council [2008] 19 LEC333)*

Given the conclusion of this assessment that the proposal will result in substantially the same development as currently approved, the extension of the facility onto the adjoining allotment is considered consistent with the legal precedent set by the Court and should not preclude approval of the modification.

## **6.2 Matters of consideration in Section 79C of the Act**

An assessment of the proposal against the relevant matters for consideration is contained below:

### **(a) the provisions of:**

#### **(i) any environmental planning instrument,**

- State Environmental Planning Policy (Western Sydney Parklands) 2009

This State Environmental Planning Policy (SEPP) applies to all lands within the Western Sydney Parklands, including the area of the Eastern Creek WRC. The aim of the Policy is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Sydney Parklands into a multi-use urban parkland for the region of Western Sydney.

Clause 9 of the Policy provides that land within the Parklands is unzoned. However clause 6(2) states that Part 3 of the *State Environmental Planning Policy (Infrastructure) 2007* applies to the Western Parklands as if it was in a prescribed zone under that policy.

Clause 11 of SEPP (Western Sydney Parklands) provides that the following development may be carried out without development consent but only if it is carried out by or on behalf of a public authority:

*“cafes; community facilities; entertainment facilities; environmental facilities; environmental protection works; function centres; information and education facilities; kiosks; landscaping; maintenance depots; public administration buildings; recreation areas; recreation facilities (outdoor); signage (for directional, informative, or interpretative purposes); ticketing facilities.”*

Other developments, excluding development for the purposes of residential accommodation may be carried out in the parklands only with development consent.

Clause 12 of the Policy sets out the matters to be generally considered by a consent authority in determining a development application for development on land in the Western Parklands.

- (a) the aim of this Policy, as set out in clause 2,*
- (b) the impact on drinking water catchments and associated infrastructure,*
- (c) the impact on utility services and easements,*
- (d) the impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities,*
- (e) the impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland,*
- (f) the impact on the Western Parkland’s linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use,*
- (g) the impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of western Sydney,*
- (h) the impact on public access to the Western Parklands,*
- (i) consistency with:*
  - (i) any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or*
  - (ii) any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part,*
- (j) the impact on surrounding residential amenity,*
- (k) the impact on significant views,*
- (l) the effect on drainage patterns, ground water, flood patterns and wetland viability,*
- (m) the impact on heritage items,*
- (n) the impact on traffic and parking.*

The greenwaste facility is an approved use on the site and the proposed modification will not alter the nature of operations and its management as previously approved. The inclusion of additional area to the facility and addition of the mechanical workshop shed will not impact on the development, operation and management of the Western Parklands and access to it.

There are no additional impacts to residential amenity, significant views, heritage items and traffic and parking.

Overall the proposal is not considered to hinder the aims of the Policy as it involves the physical extension of an existing approved facility within an area used for waste management purposes.



- State Environmental Planning Policy (Infrastructure) 2007

This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW.

Division 23 of the SEPP applies to waste or resource management facilities. The subject facility falls under the definition of resource recovery facility as follows:

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

In addition a ‘waste or resource management facility’ means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

Clause 121(1) provides that development for the purpose of waste or resource management facilities, may be carried out by any person with consent on land in a prescribed zone. As noted above Clause (6) of the SEPP (Western Sydney Parklands) 2009, identifies the site as a prescribed zone.

However, as previously noted, the greenwaste facility is a previously approved use on the site and the proposed modification is not considered to significantly alter the approved use of the site. As such SEPP (Infrastructure) 2007 does not affect the proposal.

- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been modified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been differed indefinitely or has not been approved); and***

No such instrument applies to this proposal.

- (iii) any development control plan; and***

No development control plans apply to this proposal.

- (iv) any planning agreement that has been entered into under section 93F, to any draft planning agreement that a developer has offered to enter into under section 93F, and***

No planning agreement entered into under section 93F applies to the existing consent or the proposed modification.

- (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

The facility is classified as designated development under Clause 32 of Schedule 3 of the regulations. However Clause 35 of Schedule 3 states:

*Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent*

*authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.*

In this regard, this Statement indicates that the proposed modification will not significantly increase the environmental impacts of the total development and is therefore not designated development under the regulations.

Additionally the regulations make certain requirements with respect to applications for Modification of Consents under S.96(2) pertaining, in particular, to content of the application (s.115) and public participation in the assessment process (s.118). The application and its assessment will be consistent with these requirements.

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

The modification application is to extend the existing consent to allow a minor extension of the approved footprint and to incorporate various adjunct facilities including a maintenance zone (workshop shed, fuel supply area, water tanks and manoeuvring area and amenities block). The additional area extends onto previously unoccupied land to the south of the existing facility. The modification does not change the currently approved tonnages being processed by the facility.

The Statement of Environmental Effects (**SEE**), prepared by ERM (2003) for modification to expand the capacity of the existing green waste processing facility (MOD-94-9-2003i; 17 November 2004) assessed the impact of the proposal under the following headings:

- Land use
- Groundwater
- Drainage and Water Quality
- Air Quality
- Noise
- Flora and Fauna
- Visual Impacts
- Archaeology and heritage
- Traffic and Access
- Waste
- Hazardous Material
- Utilities and Services
- Public and Worker Safety
- Fire Safety
- Cumulative Impact

In order to illustrate the impacts of this Modification in comparison with the 2004 Consent, each of these matters is briefly discussed below.

- Land use

The proposed modification to extend the greenwaste platform as discussed in this statement is contained wholly within the Eastern Creek WRC. Operations of the facility are integrated with other waste management activities on the site and there will be no significant impact on surrounding land uses.

- Groundwater

The greenwaste platform (including the extension area subject of this modification) is covered with a low permeable shale/clay hardstand, effectively preventing any seepage of surface water into any underlying groundwater. Existing bores are used to monitor any changes in groundwater conditions and monitoring is undertaken in accordance with relevant Environmental Planning Licence (**EPL**) conditions.

- Drainage and Water Quality

The western platform continues to drain to the ANL dam, situated to the west of the platform whilst the eastern platform drains to the dam situated to the north-east of the eastern platform. There are no proposed changes to the drainage arrangements on site. The SEE concluded, following hydraulic analysis and modelling, that both dams could be expected to overflow less than once in 10years on average. Additionally water quality is monitored in accordance with the requirements of the EPL for the site.

- Air Quality

Air quality impacts were discussed in the SEE with respect to dust and odour. Dust minimising measures were noted in the SEE and ongoing monitoring of dust is carried out on site. Dust emissions would not change as a result of the proposal and impacts would remain acceptable.

An odour assessment was undertaken by PAEHolmes (formerly Holmes Air Sciences) to assess the potential impact of extending the site area of the existing greenwaste operation. A statement from PAEHolmes is contained in Appendix A.

The statement notes:

*“We understand that the modification would not result in any increase in input tonnage or production rate; therefore any increase in odour impacts is very unlikely. However as the source of odour is stockpiled greenwaste/composted material, it is possible that there could be an increase in the emitting surface area given that there is potential to spread the material out further. This is unlikely, given that the site operations would not change and the purpose of the expansion is to allow more efficient operation of the site which could be hindered by a significant increase in stockpile area.”*

As such, given that there will be no change to current operations on site, the proposed extension will not result in an increase in odour from the facility.

- Noise

The SEE demonstrated compliance with noise level restrictions applied by the EPL for the site. As noted above, there are no proposed changes to the current operation of the facility and as such there will be no additional noise impacts. Ongoing noise monitoring is carried out on site to ensure continued compliance with noise limits.

- Flora and Fauna

The proposed extension will not have any affect on flora and fauna as the extended area utilises an existing cleared area.

- Visual Impacts

There will be no additional visual impacts on the surrounding area as the proposed extension will be located within the existing waste management facility and cannot be viewed from outside the Eastern Creek WRC.

Additionally there is existing planting along the eastern, western and southern boundaries that provides additional screening and improves the overall appearance of the site.

- Archaeology and Heritage

The SEE stated that there are no heritage listed items or known items of archaeological significance on or near the site.

- Traffic and Access

As the modification does not change the existing operations and management of the facility, there will be no increase in traffic accessing the site. Also, there are no changes to existing access arrangements onsite.

- Waste

Given that there are no proposed changes to the operations on site, the handling of any wastes will remain unchanged. As noted in the SEE, the only wastes onsite relate to contaminants in the greenwaste. These wastes are removed from the green waste prior to processing and are recycled or disposed of to landfill as appropriate.

- Hazardous Material

The handling of any potential hazardous wastes remains unchanged on site. Any Hazardous wastes brought to the site are separated and disposed of to a premises licensed to accept hazardous materials.

- Utilities and Services

The amenities building is serviced by a bio-septic system. The site is connected to reticulated water and electricity is supplied via existing services to the WRC.

- Public and Worker Safety

The facility has a Site Safety Management Plan and System in place; Environmental risk assessment, including OH & S assessment conducted in accordance with the site's EMP. Additionally, site workers are inducted to the site and trained accordingly.

- Fire Safety

There will be no change to current fire management practises on site. Fire management practices are outlined in the facility's Fire Management Plant. Fire fighting equipment is accessible on site and site staff are trained to manage any fire outbreaks.

- Cumulative Impact

Operation of the current facilities creates positive cumulative impacts at social, economic and environmental levels. The proposed amendments will have no negative impacts and will contribute to these existing positive impacts.

**(c) *The suitability of the site for the development;***

The greenwaste facility has been operating on the site since it was approved in 1996. The additional area that is the subject of this application extends onto previously unused land to the south of the existing facility. The proposed modification is to alter the footprint of the facility and include a mechanical workshop shed. It will not change the nature or intensity of the operations of the facility. The workshop shed, which is necessary for the operations of the facility, is built on the extended site as it provides a stable building platform on unfilled land in preference to the currently approved area which incorporates only filled land which may be unsuitable for building construction. On this basis it is considered that the site will remain suitable for the development as modified.

**(d) *Any submissions made in accordance with this Act or the regulations;***

Submissions made to the notification of the proposed modification will be considered by the applicant and the proposal will be amended if required prior to final consideration by the Minister.

**(e) *The public interest***

The facility receives and processes greenwastes from local council areas, from other WSN transfer stations and from commercial contractors into quality compost products. As noted above there will be no change to the management and operation of the facility. The facility will continue to service the green waste recycling needs of the area.

The proposed modification will allow for more efficient operations to be carried out on site and allow the facility to better service the needs of the public in this respect with no impacts to the amenity of the locality.

The overall outcome of this assessment is that the proposed modification is considered to have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act

## **7.0 CONCLUSIONS**

The proposed extension of the greenwaste facility is required to allow for more efficient operations to occur on site. In addition the extension includes a workshop building that could not be located within the approved footprint of the site given the hazards of such construction on filled land.

The proposal is to modify the Ministers Consent 29/19 dated 2 June 1996 (as modified on 17 November 2004 and 6 July 2007) by addition of the workshop building and by modifying Condition 4 to allow extension onto the adjoining allotment over a total additional site area of 0.95 hectares.

This assessment has indicated that the proposed modification is consistent with the requirements of S.96(2) of the *Environmental Planning and Assessment Act 1979* in that:

- The modification will result in 'substantially the same development' as that originally approved; and
- The development will have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

Given the minor nature of the proposal and that there is not considered to be any additional impacts or changes to current operations on site, the proposed modification is considered substantiated.

**APPENDIX A: ODOUR IMPACT STATEMENT**



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The Facility operates under the Minister's development consent no. SEPP29/19 dated 2 July 1996 as modified on 12 October 1997, 17 November 2004 and 6 July 2007.

Condition 4 of this consent reads:

*"The facility is to be restricted to the designated 3.5 hectare site in the first stage and the final stage of the development involving a second additional 2.2 hectare site, as per the plans contained in the Eastern Creek Waste Processing Facility EIS, July 1995. Any further expansion of the development site will require separate development consent."*

The footprint of the facility has extended beyond its originally approved 5.7 ha limit and now covers a total area of 6.65 hectares. The extended area supports a workshop shed, a refuelling bay, water tanks and minor encroachments of existing stockpiles. This application seeks to modify Consent S29/19 under S.96(2) of the *Environmental Planning and Assessment Act, 1979 (the Act)* to provide for extension of the greenwaste facility footprint and to allow the operations that are not subject to the existing consents.

## 2.0 SITE PARTICULARS (Figures 1 & 2)

The Eastern Creek WRC is located on part of Lot 1 and 2 DP1073820, Lot 11 DP1048435, Lot 2 DP1059698 and Lot 12 DP1049029 off Wallgrove Road, Eastern Creek. Lot 11 DP1048435 and Lot 2 DP1059698 in the south is owned by WSN, while the remainder of the site is leased from the NSW Department of Planning (refer Figure 1).

The Eastern Creek WRC is located off Wallgrove Road, Eastern Creek, within the Blacktown Local Government Area (LGA).

Completed landfill Areas 1 to 4, are located on the western side of Eastern Creek WRC within the area known as Eastern Creek 1. Eastern Creek 2 landfill is divided into areas referred to as the 'Southern Cells' and the 'Northern Cells' (cells 4, 6 and 7). Landfilling operations are now complete at the Southern Cells, with rehabilitation works currently planned. Landfill operations are currently carried out at the 'Northern Cells'.

In addition WSN also operates a leachate treatment plant, subleases to Energy Developments Ltd (**EDL**) who operate a landfill to gas power plant situated at the Wallgrove Road entrance to the site and also operates their own landfill gas power plant in conjunction with Landfill Management Services Pty (**LMS**). Figure 2 shows an aerial view of the facilities at the site and surrounds.

The Green Waste Processing Facility is located within the area known as Eastern Creek 1. Under the current consent it operates on Lot 2, DP 1073820. A survey of the Green Waste Processing Facility is contained in Figure 3.

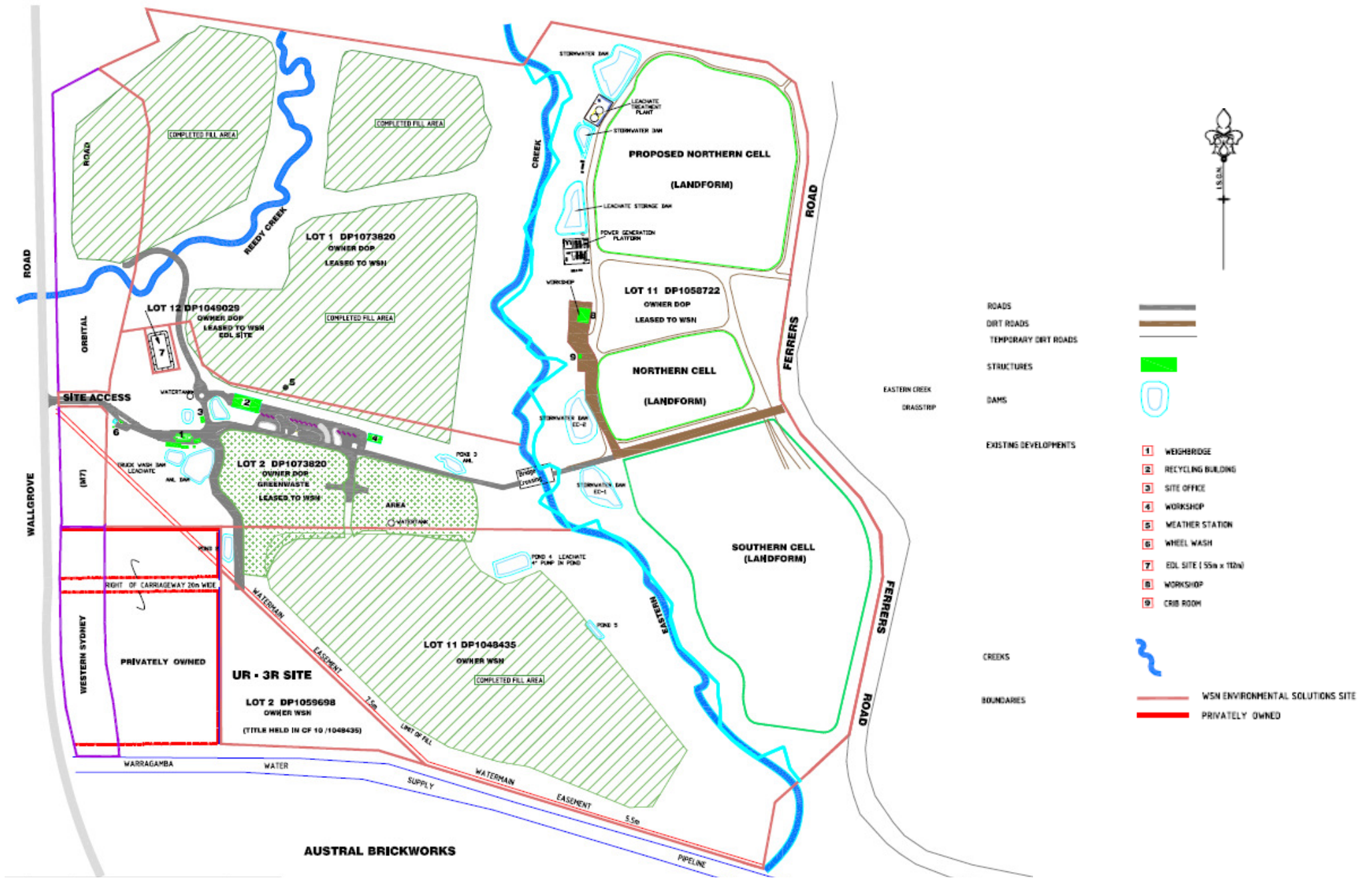


Figure 1: Site Plan and Cadastral information (Subject Site stippled green)  
Page 4

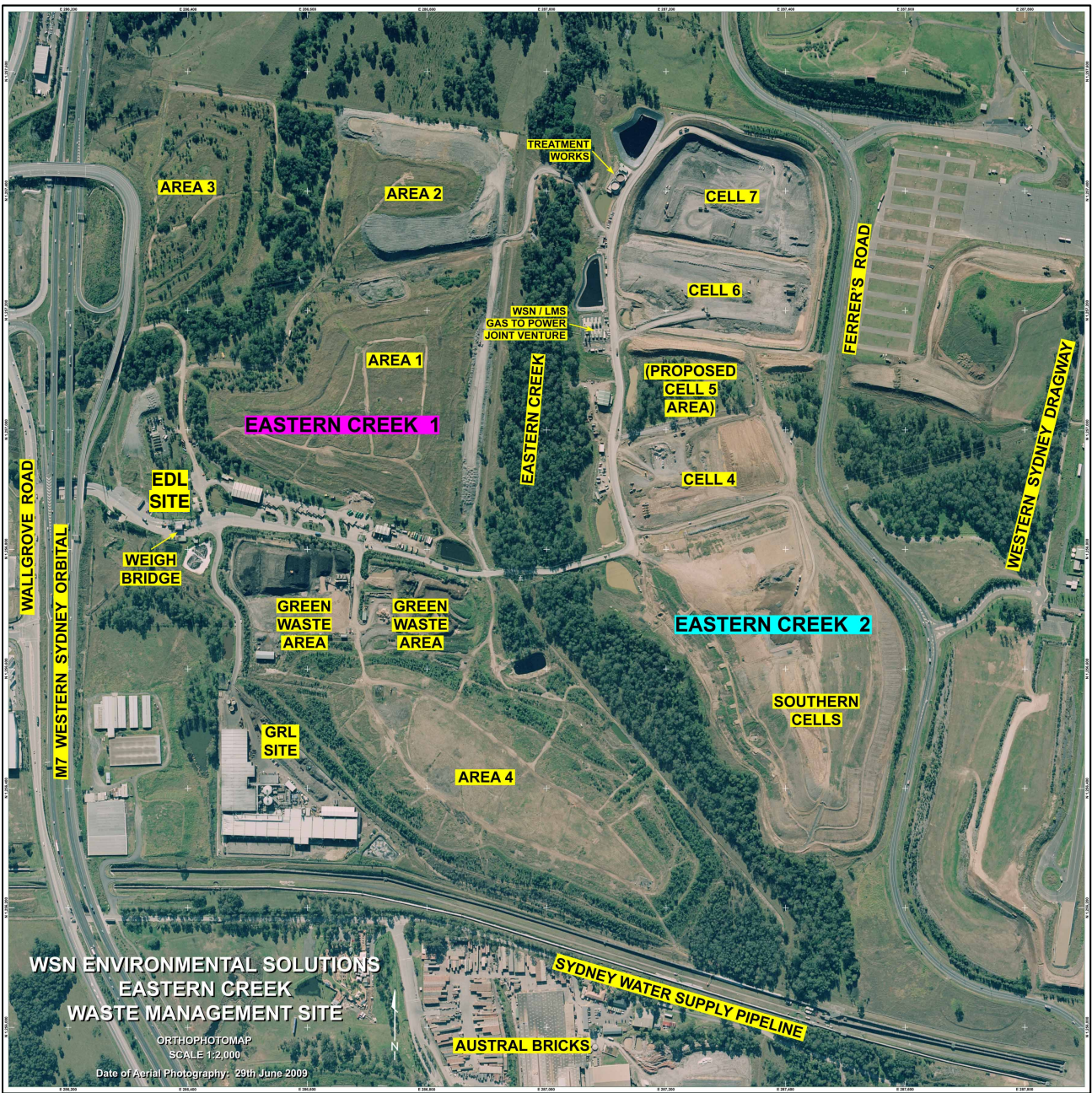


Figure 2: Eastern Creek Site Plan and Surrounds

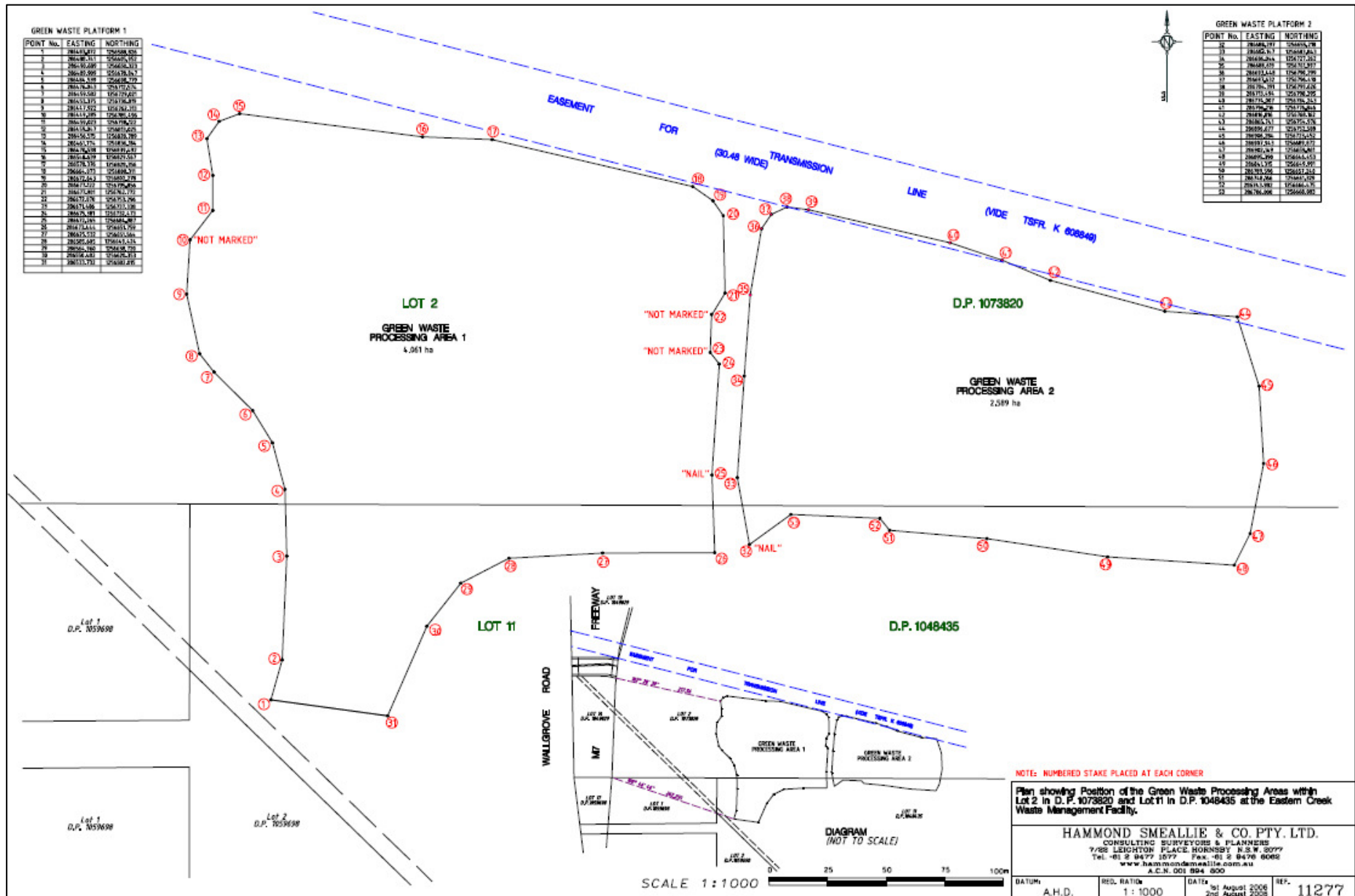


Figure 3: Site Survey of Greenwaste platforms)

### 3.0 CONSENT HISTORY

The following consent and modifications are of relevance to this application:

- Original Consent – Minister’s approval, S29/19 (2 June 1996), for development of a green waste processing facility.
- Modification to add a ‘Trial Aerated Static Pile Facility’ (S29/19-mod; 12 October 1997)
- Modification to expand the capacity of the existing green waste processing facility, including an increase in tonnages, upgrade works, replacement of administration buildings, establishment of vehicle parking and changes to stockpile configurations (MOD-94-9-2003i; 17 November 2004)
- Modification to modify the hours of operation of the green waste processing facility (MOD-53-6-2007i; 6 July 2007)

The **original consent (SEPP29/19, dated 2 June 1996)**, approved the development of a greenwaste processing facility, including:

- Construction of two platforms with sufficient area to accommodate receipt, shredding, composting, stockpiling and dispatching of greenwaste.
- Approval to handle up to 50,000 tonnes of greenwaste per year.
- Operations to initially occur on the western platform (with a site area of 3.5 hectares), with the eastern platform (site area of 2.2 hectares) earmarked for future expansion (refer Figure 4).

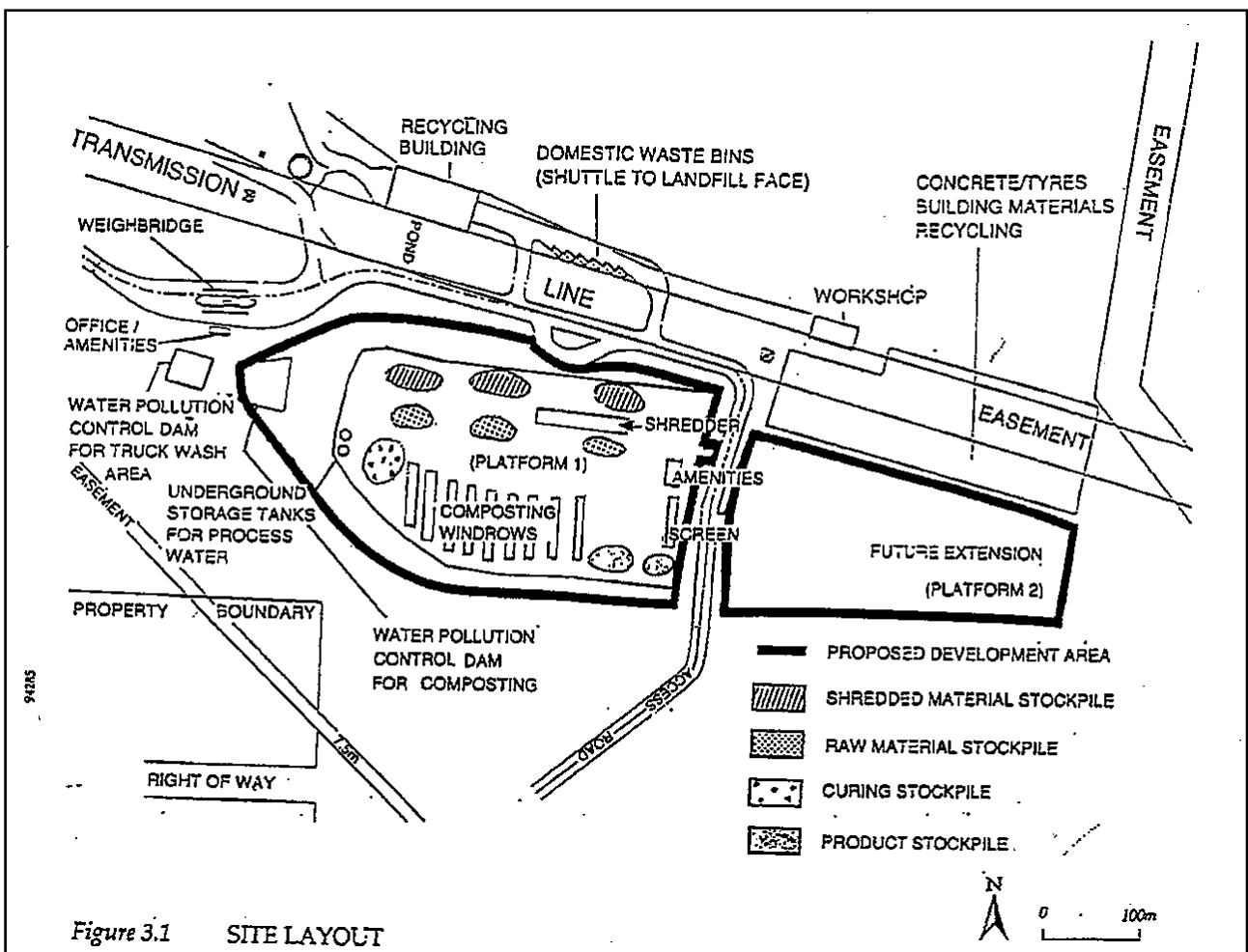


Figure 4: Site Layout as per consent no. S29/19 (2 June 1996)

Subsequently the site layout was altered via **MOD-94-9-2003i** (dated 17 November 2004). This modification approved the expansion of the greenwaste processing facility, including:

- An increase in accepted tonnages to 80,000 tonnes per annum;
- Major upgrade works which altered the site layout of the facility.
- A new portable building on the eastern platform (to replace the original administration building that was destroyed by fire in 2002).
- A vehicle parking and equipment maintenance area (on the western platform near the southern boundary of the site); and
- Changes to the stockpile configurations within the originally consented 5.7ha footprint (as illustrated below in Figures 5 and 6).

A copy of the site layout from the Statement of Environmental Effects, prepared by Mitchell McCotter for this modification is contained in Figures 5 and 6.

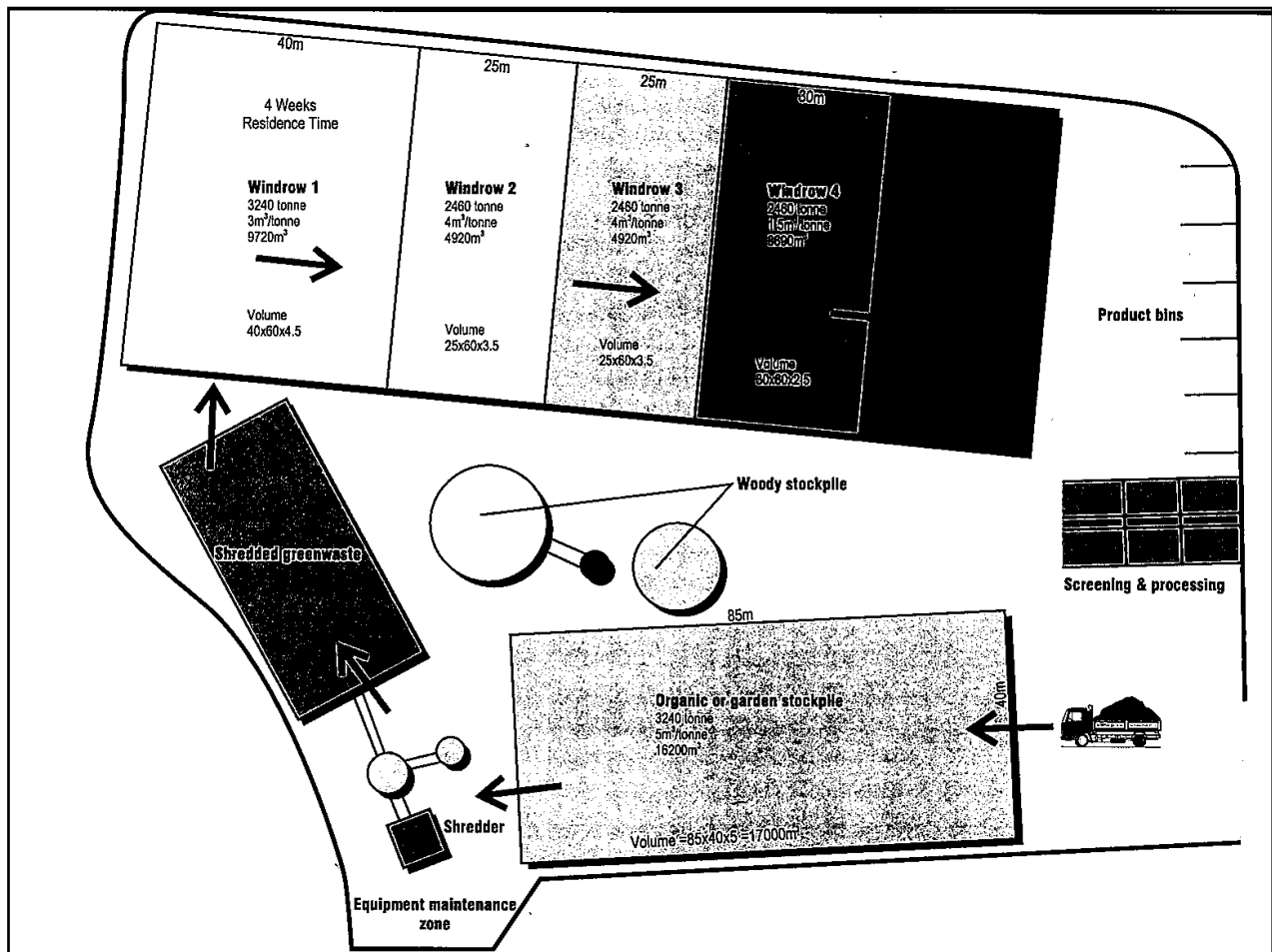


Figure 5: Western Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

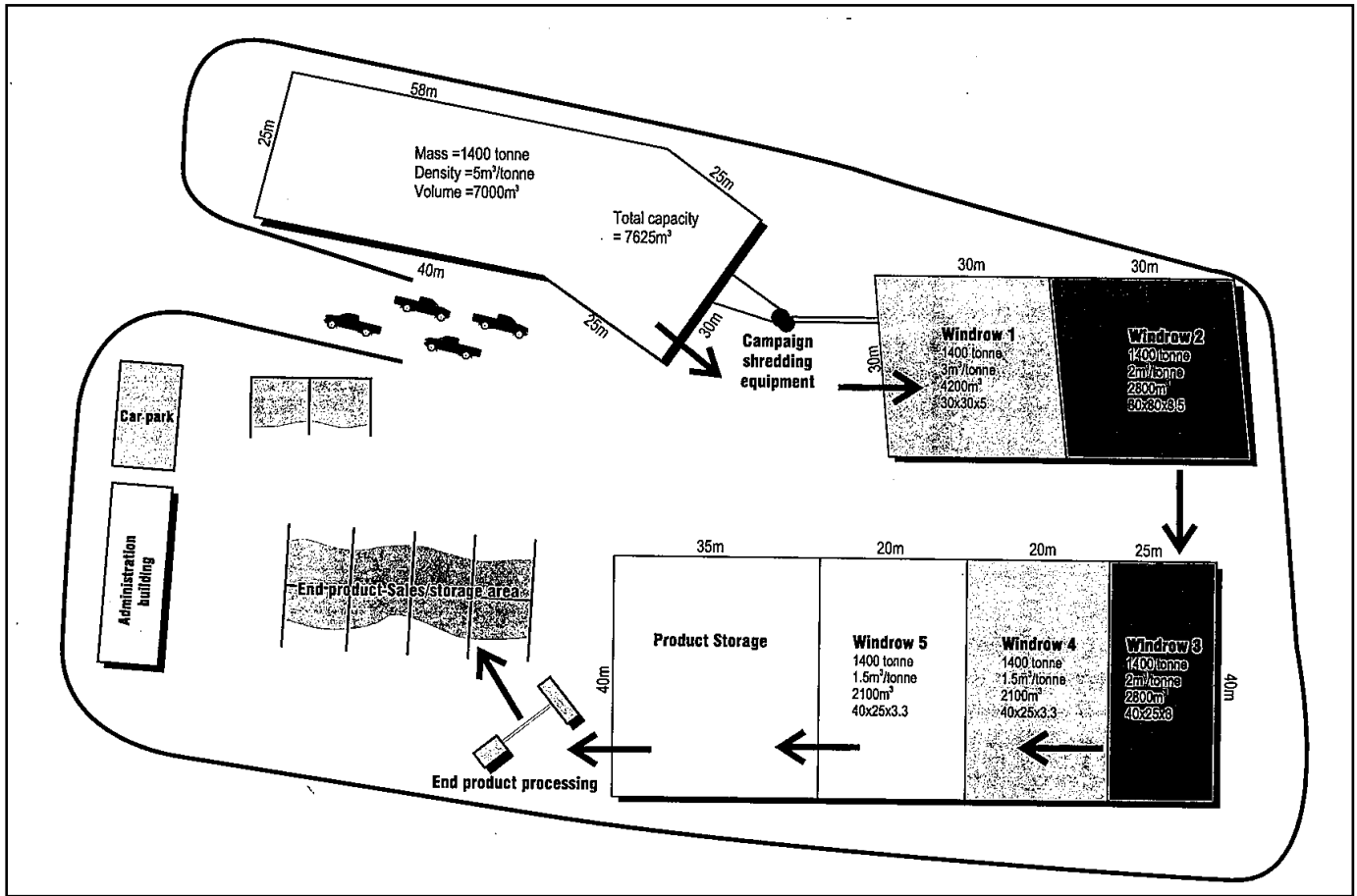


Figure 6: Eastern Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

#### 4.0 PROPOSED MODIFICATION

As approved the site occupies 5.7 hectares of closed former landfill area and consists of two platforms - the western platform (3.5 hectares) and the eastern platform (2.2 hectares), all within Lot 2 DP1073820.

The proposal seeks to modify Condition 4 of the original consent to allow for:

- the continued operation of the facility over a larger area beyond the 5.7 hectares consented by this condition (approval is sought for an extension of the area of the facility to the south onto Lot 11 DP 1048435, involving an addition of 0.95 hectares and resulting in a new total area of 6.65 hectares);
- an existing steel workshop building of dimensions 30m x 12m and 6m high on an extension to the western platform;
- sundry additional structures (an amenities building of dimensions 8.5m x 3m and 2.4m high, a refuelling bay and 3 4.4m diameter x 3m high water tanks); and
- Some minor encroachments of the eastern and western stockpile areas

The extended area will primarily encompass the unfilled land that previously formed a buffer between the approved greenwaste platform area and the Area 4 landfill. The new boundaries follow the natural landform, and are consistent with the contours that define the edge of the former Area 4 landfill

The proposal generally maintains the same layout and operations as previously approved in Modification No. MOD-94-9-2003i and as shown in figures 5 and 6. The



operations will be simply occurring on a slightly larger footprint than was originally approved.

The proposal will not result in any increase to production or input tonnages and no changes to current operations or management of the facility are proposed. The modified footprint will simply allow for more efficient operations to be carried out on site.

Figure 7 illustrates the existing approved area and the extension that is requested to be consented in this application.

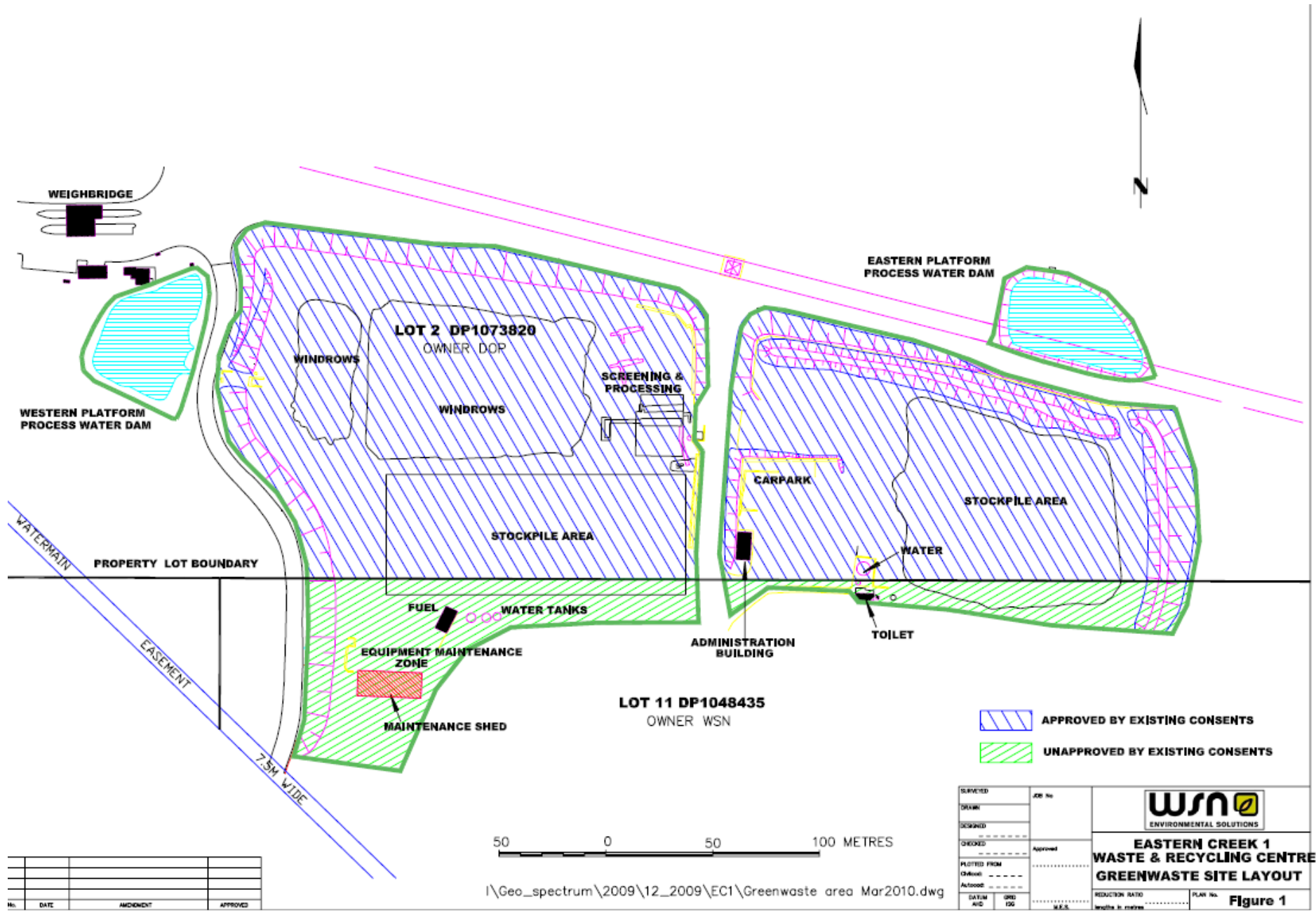


Figure 7: Existing approved area and proposed extension

## 5.0 JUSTIFICATION FOR THE PROPOSAL

In comparison with the existing consent regime, current operations at the Green Waste Processing facility are not materially changed by the modifications proposed in this application, notwithstanding that they occur over a marginally larger footprint than consented.

The marginal extension of the operational area of the facility has occurred on previously unused land that acted as a buffer to the landfill activities on the former Area 4 landfill (see Figure 1). When the Area 4 landfill was closed in 2002, the buffer became redundant and the use of the land for operational purposes became viable for the purposes of improving the efficiency of operations of the greenwaste facility. The land is unfilled, vacant and arguably of no value for other purposes within the current range of activities occurring on the greater Eastern Creek WRC site. For this reason, it is considered that extension of the greenwaste facility operations is an appropriate and acceptable use of the land.

In essence, the extended area supports activities that are adjunct to the operations of the greenwaste facility. These include:

- An equipment maintenance zone on the extension to the western platform, including the maintenance shed, vehicle manoeuvring area, refuelling facility and water tanks. This area is used exclusively for storage and maintenance of equipment used by the greenwaste facility (refer to photos 1 and 2).
- Minor portions of the western and eastern stockpiles; and
- The amenities block, also used exclusively by the greenwaste facility.

The extended configuration of the site is generally consistent with the currently approved site layout, (refer to figures 5, 6 and 7), arranged over a marginally extended site area the limits of which are essentially dictated by the finished contours of the Area 4 landfill, which forms a natural boundary to the new area.



*Photo 1: Maintenance Shed and Equipment Maintenance zone (Source: WSN)*



*Photo 2: Refuelling facility and water tanks (Source: WSN)*

Critically, the extension supports only facilities that were approved in the modified consent, located on stable, unfilled land that is suitable for construction and for heavy vehicular traffic. Moreover, the facility in its extended form receives no additional tonnage of processing materials over and above the current consent as modified.

Overall there will be no additional impact from the extension of the site area as the facility will generally maintain its current operational and management procedures.

When the above outcomes are taken into account in combination with the minimal environmental impacts identified in this Statement, it is considered that the proposed modification is justified.

## 6.0 PLANNING COMPLIANCE

This application has been prepared pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*. Section 96(2) permits the Consent Authority to modify a Consent after the consideration of the following:

1. Whether the modification will result in 'substantially the same development' as that originally approved; and
2. whether the development has acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

An assessment of the proposal under each of these points follows:

### 6.1 *Substantially the same development*

It is considered that the modification is substantially the same development as currently consented for the following reasons:

- the proposal is for the continued operation of the facility in the same manner as originally approved and the proposed increase in the site area and addition of the workshop shed will not alter the production capacity of the existing facility.
- the processes and management of the operations at the facility will remain the same as outlined in the original application for development consent as modified (consent No. s29/19 dated 2 June 1996 as modified on 17 November 2004 and 6 July 2007).
- The proposed modification is minor in nature and is not considered likely to result in any unacceptable environmental impacts.

#### 6.1.1 Extension of the development into another lot

The original consent applied to Lot Y in DP 376524, which became Lot 11 in DP 1049029 and subsequently Lot 2 in DP 107820, as it is currently known. An issue arises as to whether the consent applying to this lot can be modified to extend onto the allotment to the south (Lot 11 DP 1048435).

The following table provides a summary of the consents applying to the greenwaste facility and the relevant land descriptions.

Consent No.	Date	Consent for:	Lots in land description
S29/19	2 June 1996	Development of greenwaste facility	Lot Y DP376524
S29/19-mod	12 October 1997	Trial aerated static pile facility	n/a
Mod-94-9-2003i	17 November 2004	Expand capacity of facility. Including increase in tonnages, upgrade works, replacement of administration buildings, vehicle parking and changes to stockpile configuration	Lot 11 DP1049029 (formerly Lot Y DP376524) and Lot 11 DP1048435
Mod-53-3-2007i	6 July 2007	Modification to hours of operation	Lot 2 DP1073820 (formerly Lot11 DP1049029)

As noted in the table above the lot numbers as listed in the land description for the original consent and subsequent modifications vary. The lot where the increase in site area is proposed – Lot 11 DP1048435 – is listed in the modification consent for the expansion of the facilities capacity. In effect, therefore, the current consent as modified applies to both land parcels.

Notwithstanding this, the validity of the proposed extension being considered as a modification under section 96(2) is supported in a recent court appeal against the refusal of an application under section 96(2) to modify a development consent to expand the area of land used for the development approved by the consent [*Scrap Realty Pty Limited v Botany City Council* [2008] NSW LEC333 (19 Dec 2008)].

In this matter, the Court held that the consent authority has the power to modify a consent so that it applies to land additional to that to which the original consent applied provided that the consent authority is satisfied the modification will result in a development which is substantially the same as that which was originally consented.

The Commissioner commented that:

*As far as the condition precedent is concerned, the alteration is of “the development” – it expands the area on which development is carried out. There obviously will be questions of fact and degree in ascertaining whether the development before and after modification can be said to be substantially the same. Nevertheless, an expansion of the area on which development is carried out by adding land not the subject of the original consent is not inherently outside the concept of modification of the development under s.96. (Scrap Realty Pty Ltd v Botany City Council [2008] 19 LEC333)*

Given the conclusion of this assessment that the proposal will result in substantially the same development as currently approved, the extension of the facility onto the adjoining allotment is considered consistent with the legal precedent set by the Court and should not preclude approval of the modification.

## **6.2 Matters of consideration in Section 79C of the Act**

An assessment of the proposal against the relevant matters for consideration is contained below:

### **(a) the provisions of:**

#### **(i) any environmental planning instrument,**

- State Environmental Planning Policy (Western Sydney Parklands) 2009

This State Environmental Planning Policy (SEPP) applies to all lands within the Western Sydney Parklands, including the area of the Eastern Creek WRC. The aim of the Policy is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Sydney Parklands into a multi-use urban parkland for the region of Western Sydney.

Clause 9 of the Policy provides that land within the Parklands is unzoned. However clause 6(2) states that Part 3 of the *State Environmental Planning Policy (Infrastructure) 2007* applies to the Western Parklands as if it was in a prescribed zone under that policy.

Clause 11 of SEPP (Western Sydney Parklands) provides that the following development may be carried out without development consent but only if it is carried out by or on behalf of a public authority:

*“cafes; community facilities; entertainment facilities; environmental facilities; environmental protection works; function centres; information and education facilities; kiosks; landscaping; maintenance depots; public administration buildings; recreation areas; recreation facilities (outdoor); signage (for directional, informative, or interpretative purposes); ticketing facilities.”*

Other developments, excluding development for the purposes of residential accommodation may be carried out in the parklands only with development consent.

Clause 12 of the Policy sets out the matters to be generally considered by a consent authority in determining a development application for development on land in the Western Parklands.

- (a) the aim of this Policy, as set out in clause 2,*
- (b) the impact on drinking water catchments and associated infrastructure,*
- (c) the impact on utility services and easements,*
- (d) the impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities,*
- (e) the impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland,*
- (f) the impact on the Western Parkland’s linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use,*
- (g) the impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of western Sydney,*
- (h) the impact on public access to the Western Parklands,*
- (i) consistency with:*
  - (i) any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or*
  - (ii) any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part,*
- (j) the impact on surrounding residential amenity,*
- (k) the impact on significant views,*
- (l) the effect on drainage patterns, ground water, flood patterns and wetland viability,*
- (m) the impact on heritage items,*
- (n) the impact on traffic and parking.*

The greenwaste facility is an approved use on the site and the proposed modification will not alter the nature of operations and its management as previously approved. The inclusion of additional area to the facility and addition of the mechanical workshop shed will not impact on the development, operation and management of the Western Parklands and access to it.

There are no additional impacts to residential amenity, significant views, heritage items and traffic and parking.

Overall the proposal is not considered to hinder the aims of the Policy as it involves the physical extension of an existing approved facility within an area used for waste management purposes.

- State Environmental Planning Policy (Infrastructure) 2007

This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW.

Division 23 of the SEPP applies to waste or resource management facilities. The subject facility falls under the definition of resource recovery facility as follows:

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

In addition a ‘waste or resource management facility’ means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

Clause 121(1) provides that development for the purpose of waste or resource management facilities, may be carried out by any person with consent on land in a prescribed zone. As noted above Clause (6) of the SEPP (Western Sydney Parklands) 2009, identifies the site as a prescribed zone.

However, as previously noted, the greenwaste facility is a previously approved use on the site and the proposed modification is not considered to significantly alter the approved use of the site. As such SEPP (Infrastructure) 2007 does not affect the proposal.

- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been modified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been differed indefinitely or has not been approved); and***

No such instrument applies to this proposal.

- (iii) any development control plan; and***

No development control plans apply to this proposal.

- (iv) any planning agreement that has been entered into under section 93F, to any draft planning agreement that a developer has offered to enter into under section 93F, and***

No planning agreement entered into under section 93F applies to the existing consent or the proposed modification.

- (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

The facility is classified as designated development under Clause 32 of Schedule 3 of the regulations. However Clause 35 of Schedule 3 states:

*Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent*



*authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.*

In this regard, this Statement indicates that the proposed modification will not significantly increase the environmental impacts of the total development and is therefore not designated development under the regulations.

Additionally the regulations make certain requirements with respect to applications for Modification of Consents under S.96(2) pertaining, in particular, to content of the application (s.115) and public participation in the assessment process (s.118). The application and its assessment will be consistent with these requirements.

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

The modification application is to extend the existing consent to allow a minor extension of the approved footprint and to incorporate various adjunct facilities including a maintenance zone (workshop shed, fuel supply area, water tanks and manoeuvring area and amenities block). The additional area extends onto previously unoccupied land to the south of the existing facility. The modification does not change the currently approved tonnages being processed by the facility.

The Statement of Environmental Effects (**SEE**), prepared by ERM (2003) for modification to expand the capacity of the existing green waste processing facility (MOD-94-9-2003i; 17 November 2004) assessed the impact of the proposal under the following headings:

- Land use
- Groundwater
- Drainage and Water Quality
- Air Quality
- Noise
- Flora and Fauna
- Visual Impacts
- Archaeology and heritage
- Traffic and Access
- Waste
- Hazardous Material
- Utilities and Services
- Public and Worker Safety
- Fire Safety
- Cumulative Impact

In order to illustrate the impacts of this Modification in comparison with the 2004 Consent, each of these matters is briefly discussed below.

- Land use

The proposed modification to extend the greenwaste platform as discussed in this statement is contained wholly within the Eastern Creek WRC. Operations of the facility are integrated with other waste management activities on the site and there will be no significant impact on surrounding land uses.

- Groundwater

The greenwaste platform (including the extension area subject of this modification) is covered with a low permeable shale/clay hardstand, effectively preventing any seepage of surface water into any underlying groundwater. Existing bores are used to monitor any changes in groundwater conditions and monitoring is undertaken in accordance with relevant Environmental Planning Licence (**EPL**) conditions.

- Drainage and Water Quality

The western platform continues to drain to the ANL dam, situated to the west of the platform whilst the eastern platform drains to the dam situated to the north-east of the eastern platform. There are no proposed changes to the drainage arrangements on site. The SEE concluded, following hydraulic analysis and modelling, that both dams could be expected to overflow less than once in 10years on average. Additionally water quality is monitored in accordance with the requirements of the EPL for the site.

- Air Quality

Air quality impacts were discussed in the SEE with respect to dust and odour. Dust minimising measures were noted in the SEE and ongoing monitoring of dust is carried out on site. Dust emissions would not change as a result of the proposal and impacts would remain acceptable.

An odour assessment was undertaken by PAEHolmes (formerly Holmes Air Sciences) to assess the potential impact of extending the site area of the existing greenwaste operation. A statement from PAEHolmes is contained in Appendix A.

The statement notes:

*“We understand that the modification would not result in any increase in input tonnage or production rate; therefore any increase in odour impacts is very unlikely. However as the source of odour is stockpiled greenwaste/composted material, it is possible that there could be an increase in the emitting surface area given that there is potential to spread the material out further. This is unlikely, given that the site operations would not change and the purpose of the expansion is to allow more efficient operation of the site which could be hindered by a significant increase in stockpile area.”*

As such, given that there will be no change to current operations on site, the proposed extension will not result in an increase in odour from the facility.

- Noise

The SEE demonstrated compliance with noise level restrictions applied by the EPL for the site. As noted above, there are no proposed changes to the current operation of the facility and as such there will be no additional noise impacts. Ongoing noise monitoring is carried out on site to ensure continued compliance with noise limits.

- Flora and Fauna

The proposed extension will not have any affect on flora and fauna as the extended area utilises an existing cleared area.

- Visual Impacts

There will be no additional visual impacts on the surrounding area as the proposed extension will be located within the existing waste management facility and cannot be viewed from outside the Eastern Creek WRC.

Additionally there is existing planting along the eastern, western and southern boundaries that provides additional screening and improves the overall appearance of the site.

- Archaeology and Heritage

The SEE stated that there are no heritage listed items or known items of archaeological significance on or near the site.

- Traffic and Access

As the modification does not change the existing operations and management of the facility, there will be no increase in traffic accessing the site. Also, there are no changes to existing access arrangements onsite.

- Waste

Given that there are no proposed changes to the operations on site, the handling of any wastes will remain unchanged. As noted in the SEE, the only wastes onsite relate to contaminants in the greenwaste. These wastes are removed from the green waste prior to processing and are recycled or disposed of to landfill as appropriate.

- Hazardous Material

The handling of any potential hazardous wastes remains unchanged on site. Any Hazardous wastes brought to the site are separated and disposed of to a premises licensed to accept hazardous materials.

- Utilities and Services

The amenities building is serviced by a bio-septic system. The site is connected to reticulated water and electricity is supplied via existing services to the WRC.

- Public and Worker Safety

The facility has a Site Safety Management Plan and System in place; Environmental risk assessment, including OH & S assessment conducted in accordance with the site's EMP. Additionally, site workers are inducted to the site and trained accordingly.

- Fire Safety

There will be no change to current fire management practises on site. Fire management practices are outlined in the facility's Fire Management Plant. Fire fighting equipment is accessible on site and site staff are trained to manage any fire outbreaks.

- Cumulative Impact

Operation of the current facilities creates positive cumulative impacts at social, economic and environmental levels. The proposed amendments will have no negative impacts and will contribute to these existing positive impacts.

**(c) *The suitability of the site for the development;***

The greenwaste facility has been operating on the site since it was approved in 1996. The additional area that is the subject of this application extends onto previously unused land to the south of the existing facility. The proposed modification is to alter the footprint of the facility and include a mechanical workshop shed. It will not change the nature or intensity of the operations of the facility. The workshop shed, which is necessary for the operations of the facility, is built on the extended site as it provides a stable building platform on unfilled land in preference to the currently approved area which incorporates only filled land which may be unsuitable for building construction. On this basis it is considered that the site will remain suitable for the development as modified.

**(d) *Any submissions made in accordance with this Act or the regulations;***

Submissions made to the notification of the proposed modification will be considered by the applicant and the proposal will be amended if required prior to final consideration by the Minister.

**(e) *The public interest***

The facility receives and processes greenwastes from local council areas, from other WSN transfer stations and from commercial contractors into quality compost products. As noted above there will be no change to the management and operation of the facility. The facility will continue to service the green waste recycling needs of the area.

The proposed modification will allow for more efficient operations to be carried out on site and allow the facility to better service the needs of the public in this respect with no impacts to the amenity of the locality.

The overall outcome of this assessment is that the proposed modification is considered to have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act

## **7.0 CONCLUSIONS**

The proposed extension of the greenwaste facility is required to allow for more efficient operations to occur on site. In addition the extension includes a workshop building that could not be located within the approved footprint of the site given the hazards of such construction on filled land.

The proposal is to modify the Ministers Consent 29/19 dated 2 June 1996 (as modified on 17 November 2004 and 6 July 2007) by addition of the workshop building and by modifying Condition 4 to allow extension onto the adjoining allotment over a total additional site area of 0.95 hectares.

This assessment has indicated that the proposed modification is consistent with the requirements of S.96(2) of the *Environmental Planning and Assessment Act 1979* in that:

- The modification will result in 'substantially the same development' as that originally approved; and
- The development will have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

Given the minor nature of the proposal and that there is not considered to be any additional impacts or changes to current operations on site, the proposed modification is considered substantiated.

**APPENDIX A: ODOUR IMPACT STATEMENT**



## **EASTERN CREEK WASTE AND RECYCLING CENTRE**

**APPLICATION UNDER S.96(2) OF THE *ENVIRONMENTAL  
PLANNING AND ASSESSMENT ACT 1979* TO MODIFY THE  
MINISTERS CONSENT NO. S29/19 (2 JULY 1996):**

**WORKSHOP BUILDING AND EXTENSION OF GREEN WASTE  
PLATFORM AREA**

***STATEMENT OF ENVIRONMENTAL EFFECTS***

**26 March 2010**

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## 1.0 INTRODUCTION

WSN Environmental Solutions (**WSN**) operates the Eastern Creek Waste & Recycling Centre (**WRC**) located off Wallgrove Road, Eastern Creek on land partially owned by Department of Planning (**the Department**) and partially owned by WSN. As consented, the Eastern Creek Green Waste Facility (**the facility**) operates within the greater Eastern Creek site on Lot 2, DP 1073820. This lot incorporates land leased from the Department and sub-leased by WSN to Australian Native Landscapes (**ANL**) the operator of the facility. In its current configuration, the facility also occurs partially on Lot 11, DP 1048435, land in the ownership of WSN.

The Facility operates under the Minister's development consent no. SEPP29/19 dated 2 July 1996 as modified on 12 October 1997, 17 November 2004 and 6 July 2007.

Condition 4 of this consent reads:

*"The facility is to be restricted to the designated 3.5 hectare site in the first stage and the final stage of the development involving a second additional 2.2 hectare site, as per the plans contained in the Eastern Creek Waste Processing Facility EIS, July 1995. Any further expansion of the development site will require separate development consent."*

The footprint of the facility has extended beyond its originally approved 5.7 ha limit and now covers a total area of 6.65 hectares. The extended area supports a workshop shed, a refuelling bay, water tanks and minor encroachments of existing stockpiles. This application seeks to modify Consent S29/19 under S.96(2) of the *Environmental Planning and Assessment Act, 1979 (the Act)* to provide for extension of the greenwaste facility footprint and to allow the operations that are not subject to the existing consents.

## 2.0 SITE PARTICULARS (Figures 1 & 2)

The Eastern Creek WRC is located on part of Lot 1 and 2 DP1073820, Lot 11 DP1048435, Lot 2 DP1059698 and Lot 12 DP1049029 off Wallgrove Road, Eastern Creek. Lot 11 DP1048435 and Lot 2 DP1059698 in the south is owned by WSN, while the remainder of the site is leased from the NSW Department of Planning (refer Figure 1).

The Eastern Creek WRC is located off Wallgrove Road, Eastern Creek, within the Blacktown Local Government Area (LGA).

Completed landfill Areas 1 to 4, are located on the western side of Eastern Creek WRC within the area known as Eastern Creek 1. Eastern Creek 2 landfill is divided into areas referred to as the 'Southern Cells' and the 'Northern Cells' (cells 4, 6 and 7). Landfilling operations are now complete at the Southern Cells, with rehabilitation works currently planned. Landfill operations are currently carried out at the 'Northern Cells'.

In addition WSN also operates a leachate treatment plant, subleases to Energy Developments Ltd (**EDL**) who operate a landfill to gas power plant situated at the Wallgrove Road entrance to the site and also operates their own landfill gas power plant in conjunction with Landfill Management Services Pty (**LMS**). Figure 2 shows an aerial view of the facilities at the site and surrounds.

The Green Waste Processing Facility is located within the area known as Eastern Creek 1. Under the current consent it operates on Lot 2, DP 1073820. A survey of the Green Waste Processing Facility is contained in Figure 3.

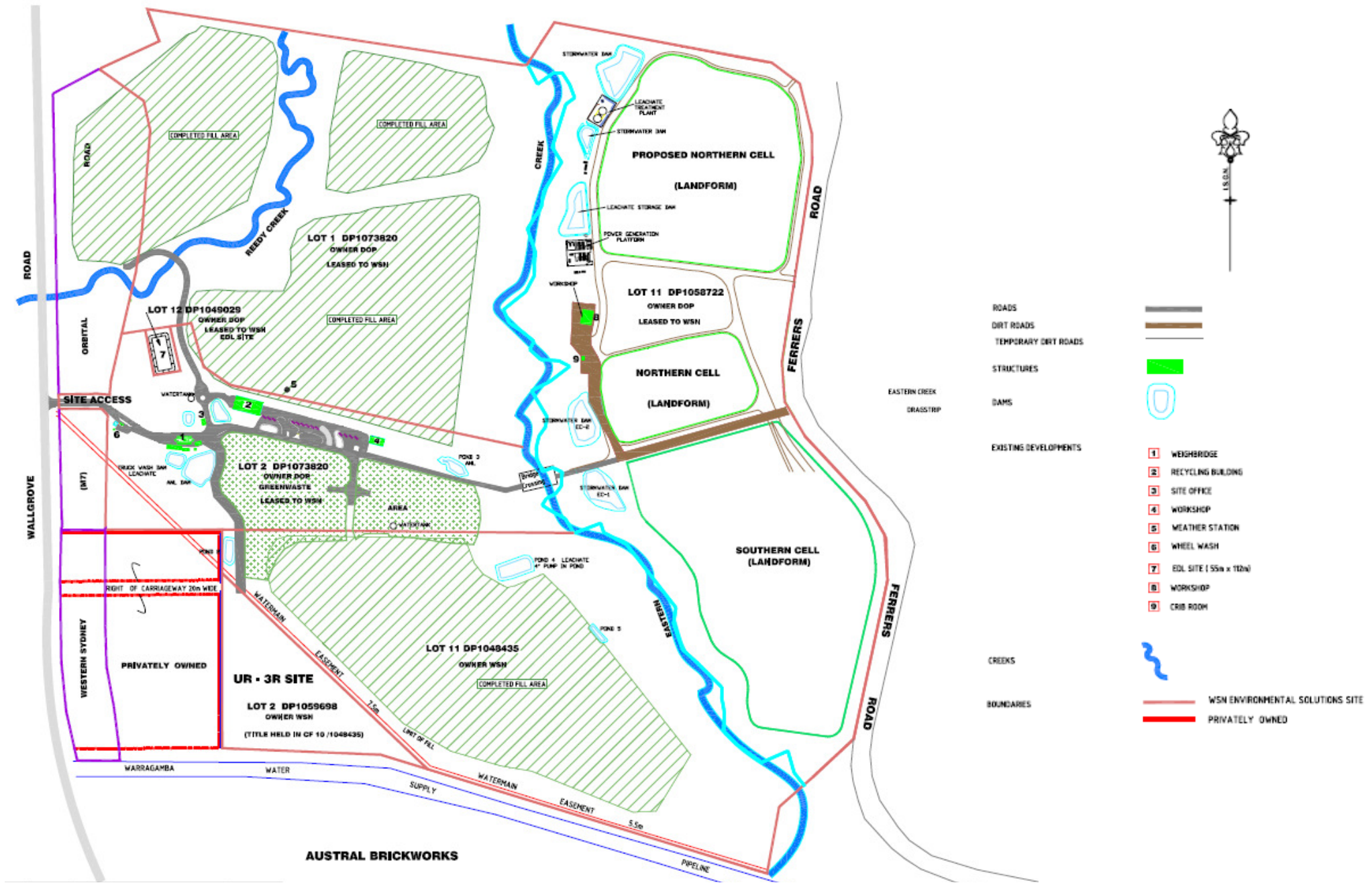


Figure 1: Site Plan and Cadastral information (Subject Site stippled green)  
Page 4



Figure 2: Eastern Creek Site Plan and Surrounds

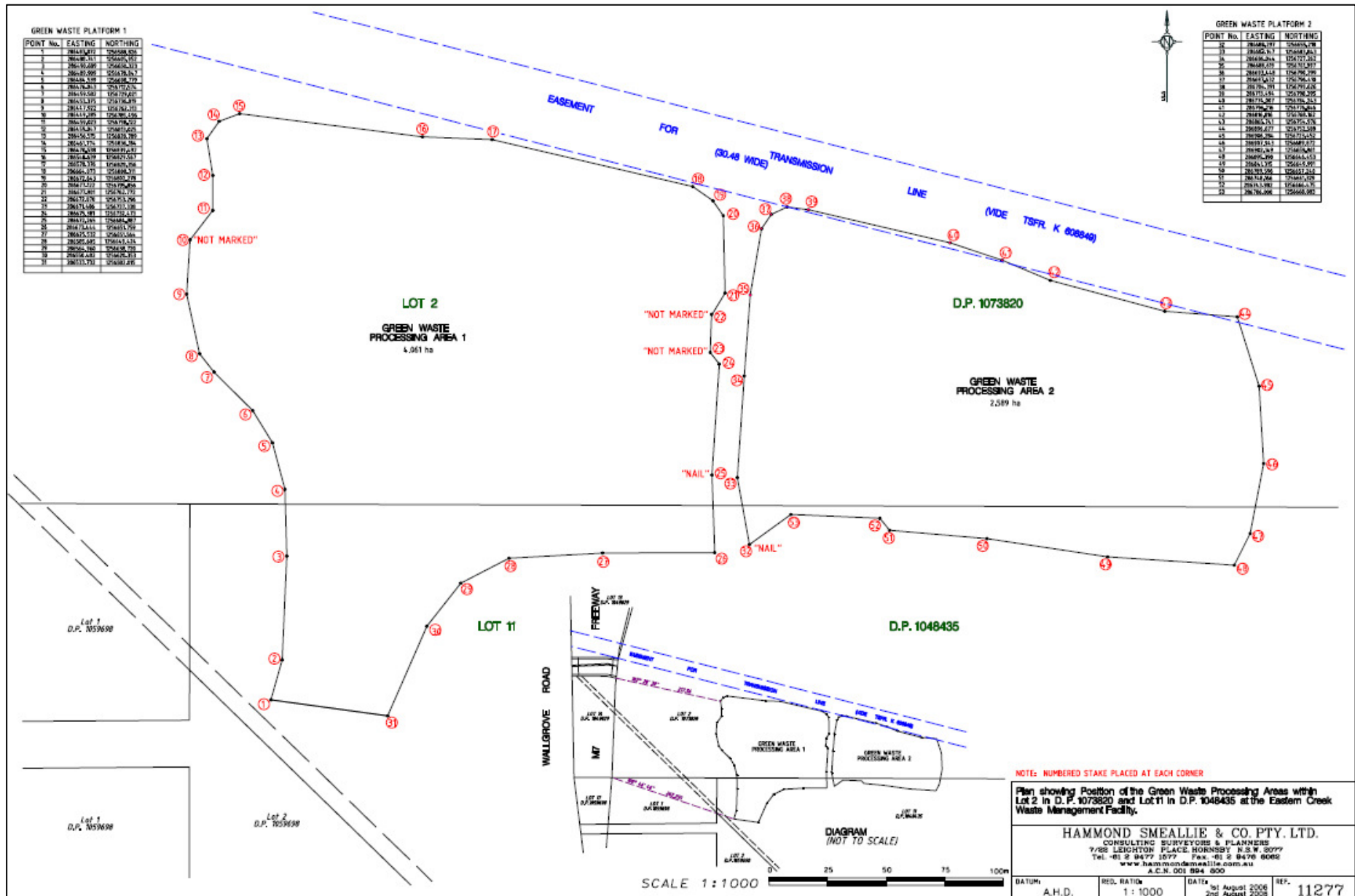


Figure 3: Site Survey of Greenwaste platforms)

### 3.0 CONSENT HISTORY

The following consent and modifications are of relevance to this application:

- Original Consent – Minister’s approval, S29/19 (2 June 1996), for development of a green waste processing facility.
- Modification to add a ‘Trial Aerated Static Pile Facility’ (S29/19-mod; 12 October 1997)
- Modification to expand the capacity of the existing green waste processing facility, including an increase in tonnages, upgrade works, replacement of administration buildings, establishment of vehicle parking and changes to stockpile configurations (MOD-94-9-2003i; 17 November 2004)
- Modification to modify the hours of operation of the green waste processing facility (MOD-53-6-2007i; 6 July 2007)

The **original consent (SEPP29/19, dated 2 June 1996)**, approved the development of a greenwaste processing facility, including:

- Construction of two platforms with sufficient area to accommodate receipt, shredding, composting, stockpiling and dispatching of greenwaste.
- Approval to handle up to 50,000 tonnes of greenwaste per year.
- Operations to initially occur on the western platform (with a site area of 3.5 hectares), with the eastern platform (site area of 2.2 hectares) earmarked for future expansion (refer Figure 4).

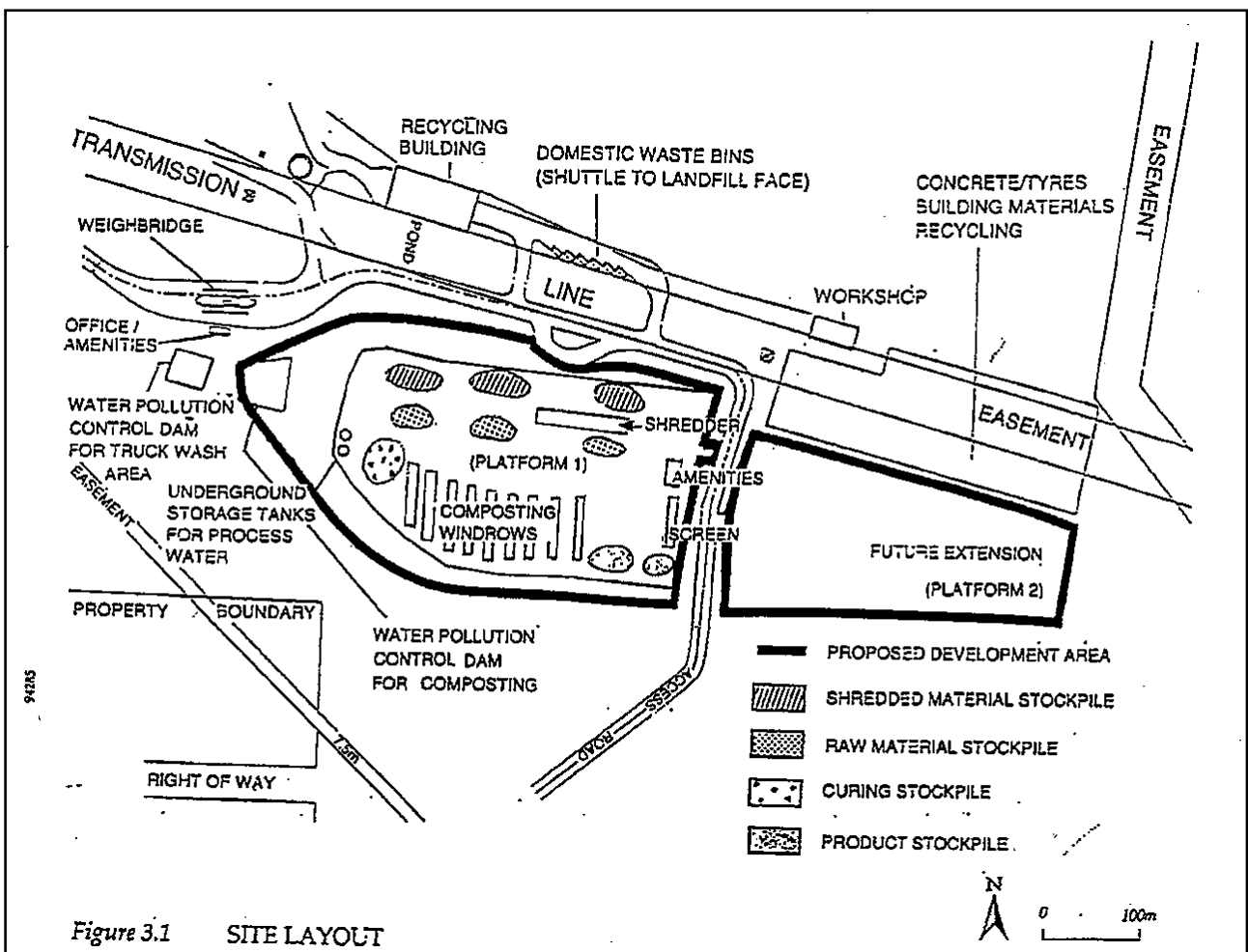


Figure 4: Site Layout as per consent no. S29/19 (2 June 1996)

Subsequently the site layout was altered via **MOD-94-9-2003i** (dated 17 November 2004). This modification approved the expansion of the greenwaste processing facility, including:

- An increase in accepted tonnages to 80,000 tonnes per annum;
- Major upgrade works which altered the site layout of the facility.
- A new portable building on the eastern platform (to replace the original administration building that was destroyed by fire in 2002).
- A vehicle parking and equipment maintenance area (on the western platform near the southern boundary of the site); and
- Changes to the stockpile configurations within the originally consented 5.7ha footprint (as illustrated below in Figures 5 and 6).

A copy of the site layout from the Statement of Environmental Effects, prepared by Mitchell McCotter for this modification is contained in Figures 5 and 6.

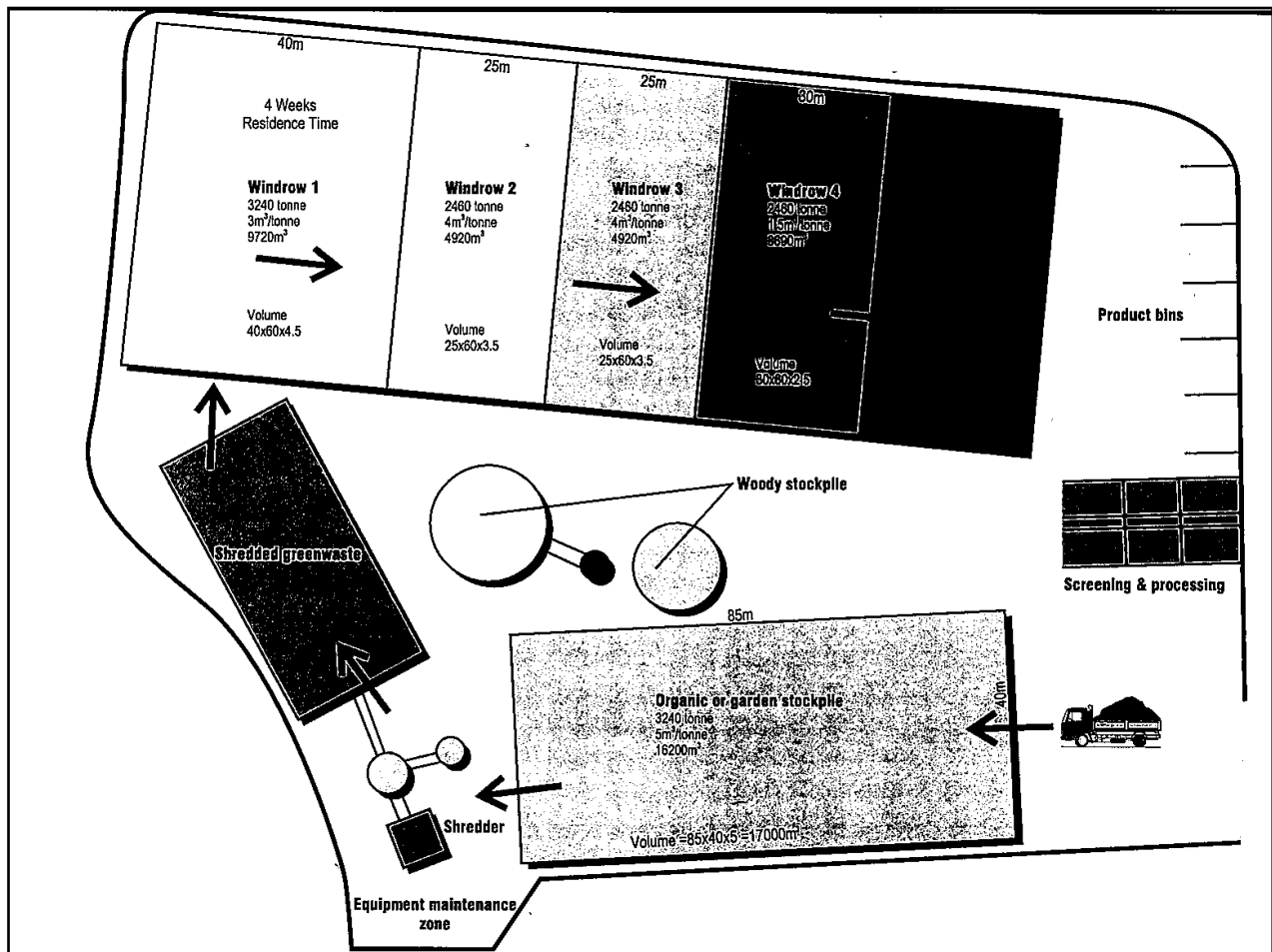


Figure 5: Western Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

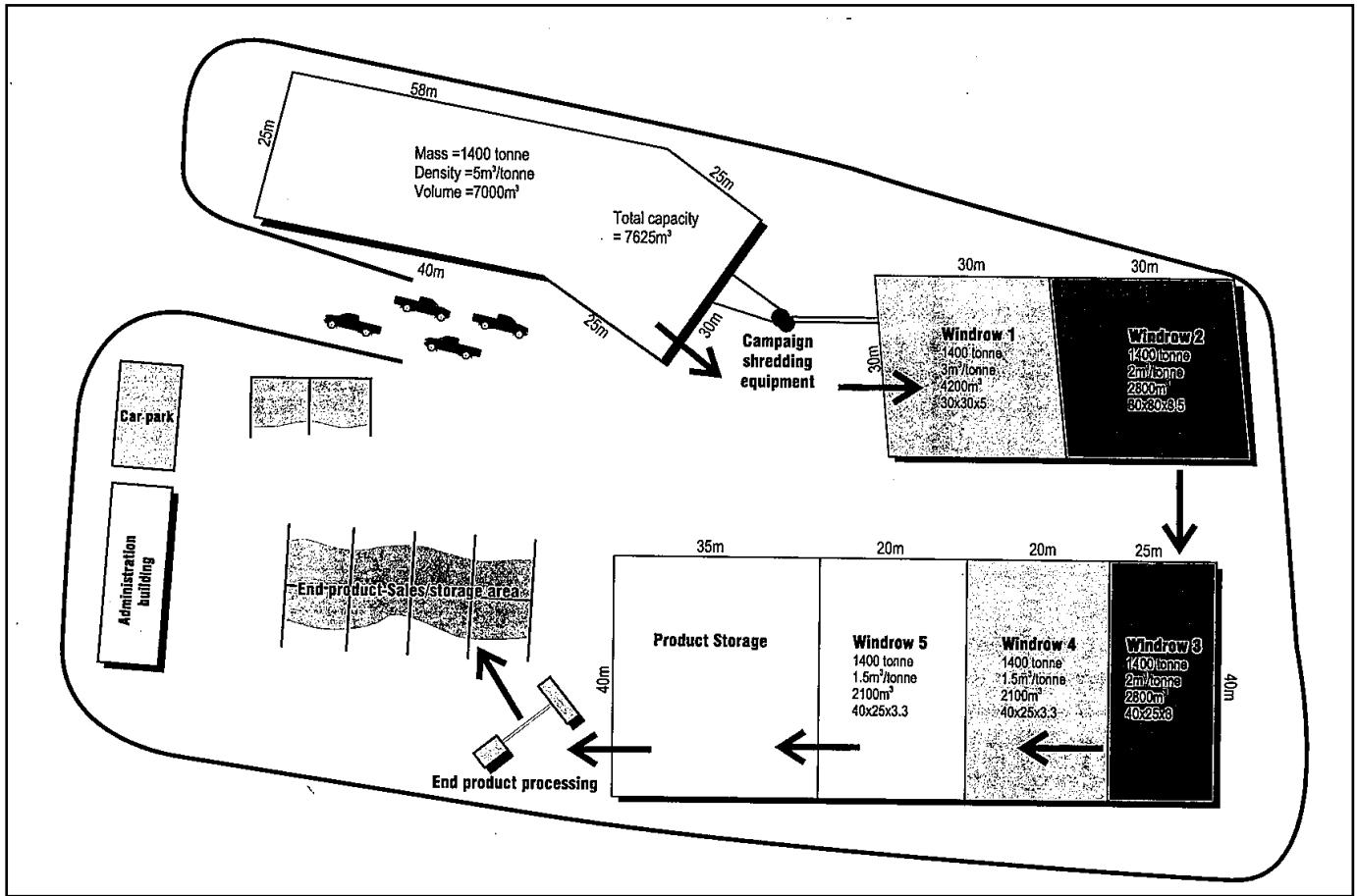


Figure 6: Eastern Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

#### 4.0 PROPOSED MODIFICATION

As approved the site occupies 5.7 hectares of closed former landfill area and consists of two platforms - the western platform (3.5 hectares) and the eastern platform (2.2 hectares), all within Lot 2 DP1073820.

The proposal seeks to modify Condition 4 of the original consent to allow for:

- the continued operation of the facility over a larger area beyond the 5.7 hectares consented by this condition (approval is sought for an extension of the area of the facility to the south onto Lot 11 DP 1048435, involving an addition of 0.95 hectares and resulting in a new total area of 6.65 hectares);
- an existing steel workshop building of dimensions 30m x 12m and 6m high on an extension to the western platform;
- sundry additional structures (an amenities building of dimensions 8.5m x 3m and 2.4m high, a refuelling bay and 3 4.4m diameter x 3m high water tanks); and
- Some minor encroachments of the eastern and western stockpile areas

The extended area will primarily encompass the unfilled land that previously formed a buffer between the approved greenwaste platform area and the Area 4 landfill. The new boundaries follow the natural landform, and are consistent with the contours that define the edge of the former Area 4 landfill

The proposal generally maintains the same layout and operations as previously approved in Modification No. MOD-94-9-2003i and as shown in figures 5 and 6. The

operations will be simply occurring on a slightly larger footprint than was originally approved.

The proposal will not result in any increase to production or input tonnages and no changes to current operations or management of the facility are proposed. The modified footprint will simply allow for more efficient operations to be carried out on site.

Figure 7 illustrates the existing approved area and the extension that is requested to be consented in this application.



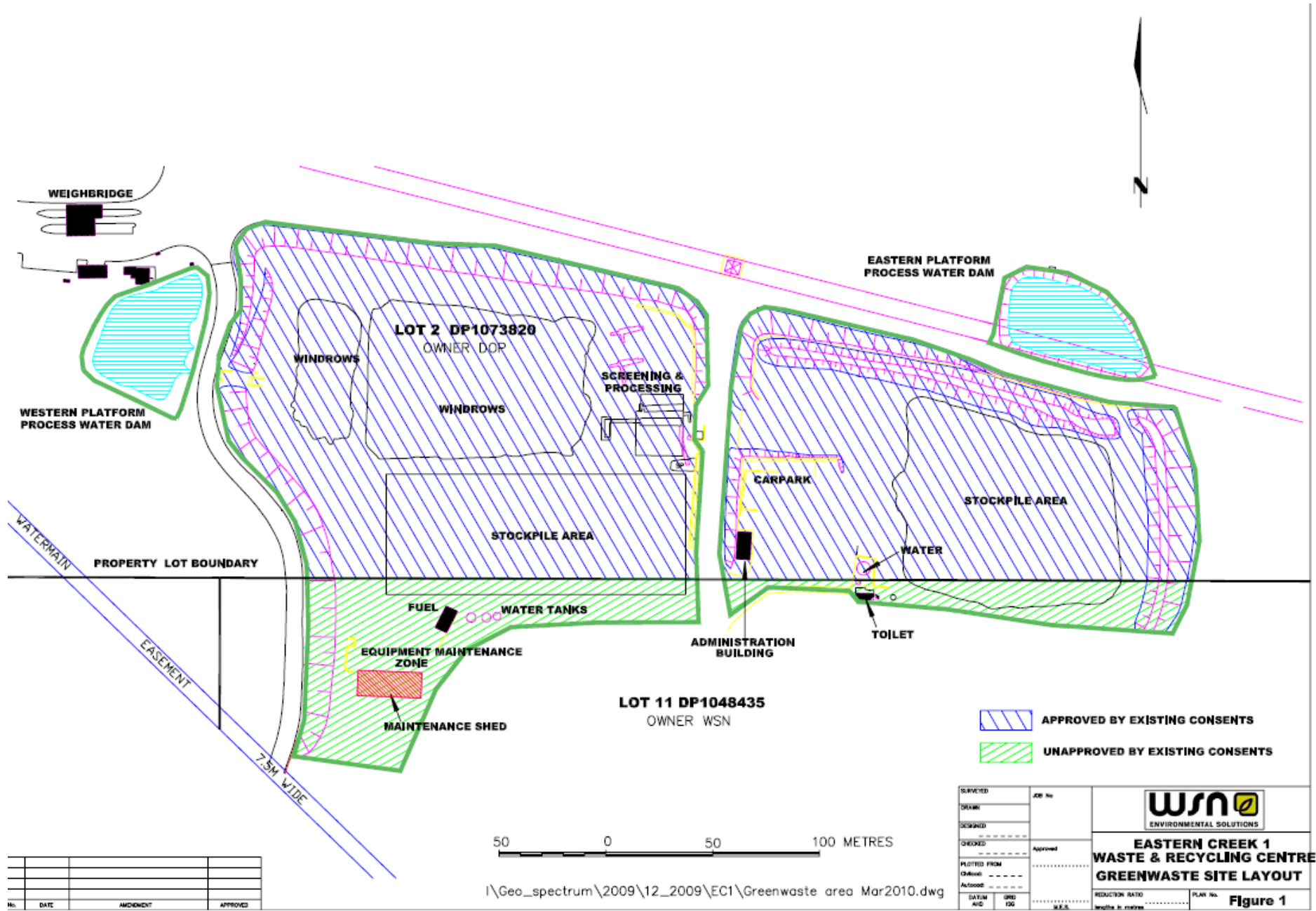


Figure 7: Existing approved area and proposed extension

## 5.0 JUSTIFICATION FOR THE PROPOSAL

In comparison with the existing consent regime, current operations at the Green Waste Processing facility are not materially changed by the modifications proposed in this application, notwithstanding that they occur over a marginally larger footprint than consented.

The marginal extension of the operational area of the facility has occurred on previously unused land that acted as a buffer to the landfill activities on the former Area 4 landfill (see Figure 1). When the Area 4 landfill was closed in 2002, the buffer became redundant and the use of the land for operational purposes became viable for the purposes of improving the efficiency of operations of the greenwaste facility. The land is unfilled, vacant and arguably of no value for other purposes within the current range of activities occurring on the greater Eastern Creek WRC site. For this reason, it is considered that extension of the greenwaste facility operations is an appropriate and acceptable use of the land.

In essence, the extended area supports activities that are adjunct to the operations of the greenwaste facility. These include:

- An equipment maintenance zone on the extension to the western platform, including the maintenance shed, vehicle manoeuvring area, refuelling facility and water tanks. This area is used exclusively for storage and maintenance of equipment used by the greenwaste facility (refer to photos 1 and 2).
- Minor portions of the western and eastern stockpiles; and
- The amenities block, also used exclusively by the greenwaste facility.

The extended configuration of the site is generally consistent with the currently approved site layout, (refer to figures 5, 6 and 7), arranged over a marginally extended site area the limits of which are essentially dictated by the finished contours of the Area 4 landfill, which forms a natural boundary to the new area.



*Photo 1: Maintenance Shed and Equipment Maintenance zone (Source: WSN)*



*Photo 2: Refuelling facility and water tanks (Source: WSN)*

Critically, the extension supports only facilities that were approved in the modified consent, located on stable, unfilled land that is suitable for construction and for heavy vehicular traffic. Moreover, the facility in its extended form receives no additional tonnage of processing materials over and above the current consent as modified.

Overall there will be no additional impact from the extension of the site area as the facility will generally maintain its current operational and management procedures.

When the above outcomes are taken into account in combination with the minimal environmental impacts identified in this Statement, it is considered that the proposed modification is justified.

## 6.0 PLANNING COMPLIANCE

This application has been prepared pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*. Section 96(2) permits the Consent Authority to modify a Consent after the consideration of the following:

1. Whether the modification will result in 'substantially the same development' as that originally approved; and
2. whether the development has acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

An assessment of the proposal under each of these points follows:

### 6.1 *Substantially the same development*

It is considered that the modification is substantially the same development as currently consented for the following reasons:

- the proposal is for the continued operation of the facility in the same manner as originally approved and the proposed increase in the site area and addition of the workshop shed will not alter the production capacity of the existing facility.
- the processes and management of the operations at the facility will remain the same as outlined in the original application for development consent as modified (consent No. s29/19 dated 2 June 1996 as modified on 17 November 2004 and 6 July 2007).
- The proposed modification is minor in nature and is not considered likely to result in any unacceptable environmental impacts.

#### 6.1.1 Extension of the development into another lot

The original consent applied to Lot Y in DP 376524, which became Lot 11 in DP 1049029 and subsequently Lot 2 in DP 107820, as it is currently known. An issue arises as to whether the consent applying to this lot can be modified to extend onto the allotment to the south (Lot 11 DP 1048435).

The following table provides a summary of the consents applying to the greenwaste facility and the relevant land descriptions.

Consent No.	Date	Consent for:	Lots in land description
S29/19	2 June 1996	Development of greenwaste facility	Lot Y DP376524
S29/19-mod	12 October 1997	Trial aerated static pile facility	n/a
Mod-94-9-2003i	17 November 2004	Expand capacity of facility. Including increase in tonnages, upgrade works, replacement of administration buildings, vehicle parking and changes to stockpile configuration	Lot 11 DP1049029 (formerly Lot Y DP376524) and Lot 11 DP1048435
Mod-53-3-2007i	6 July 2007	Modification to hours of operation	Lot 2 DP1073820 (formerly Lot11 DP1049029)

As noted in the table above the lot numbers as listed in the land description for the original consent and subsequent modifications vary. The lot where the increase in site area is proposed – Lot 11 DP1048435 – is listed in the modification consent for the expansion of the facilities capacity. In effect, therefore, the current consent as modified applies to both land parcels.

Notwithstanding this, the validity of the proposed extension being considered as a modification under section 96(2) is supported in a recent court appeal against the refusal of an application under section 96(2) to modify a development consent to expand the area of land used for the development approved by the consent [*Scrap Realty Pty Limited v Botany City Council* [2008] NSW LEC333 (19 Dec 2008)].

In this matter, the Court held that the consent authority has the power to modify a consent so that it applies to land additional to that to which the original consent applied provided that the consent authority is satisfied the modification will result in a development which is substantially the same as that which was originally consented.

The Commissioner commented that:

*As far as the condition precedent is concerned, the alteration is of “the development” – it expands the area on which development is carried out. There obviously will be questions of fact and degree in ascertaining whether the development before and after modification can be said to be substantially the same. Nevertheless, an expansion of the area on which development is carried out by adding land not the subject of the original consent is not inherently outside the concept of modification of the development under s.96. (Scrap Realty Pty Ltd v Botany City Council [2008] 19 LEC333)*

Given the conclusion of this assessment that the proposal will result in substantially the same development as currently approved, the extension of the facility onto the adjoining allotment is considered consistent with the legal precedent set by the Court and should not preclude approval of the modification.

## **6.2 Matters of consideration in Section 79C of the Act**

An assessment of the proposal against the relevant matters for consideration is contained below:

### **(a) the provisions of:**

#### **(i) any environmental planning instrument,**

- State Environmental Planning Policy (Western Sydney Parklands) 2009

This State Environmental Planning Policy (SEPP) applies to all lands within the Western Sydney Parklands, including the area of the Eastern Creek WRC. The aim of the Policy is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Sydney Parklands into a multi-use urban parkland for the region of Western Sydney.

Clause 9 of the Policy provides that land within the Parklands is unzoned. However clause 6(2) states that Part 3 of the *State Environmental Planning Policy (Infrastructure) 2007* applies to the Western Parklands as if it was in a prescribed zone under that policy.

Clause 11 of SEPP (Western Sydney Parklands) provides that the following development may be carried out without development consent but only if it is carried out by or on behalf of a public authority:

*“cafes; community facilities; entertainment facilities; environmental facilities; environmental protection works; function centres; information and education facilities; kiosks; landscaping; maintenance depots; public administration buildings; recreation areas; recreation facilities (outdoor); signage (for directional, informative, or interpretative purposes); ticketing facilities.”*

Other developments, excluding development for the purposes of residential accommodation may be carried out in the parklands only with development consent.

Clause 12 of the Policy sets out the matters to be generally considered by a consent authority in determining a development application for development on land in the Western Parklands.

- (a) the aim of this Policy, as set out in clause 2,*
- (b) the impact on drinking water catchments and associated infrastructure,*
- (c) the impact on utility services and easements,*
- (d) the impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities,*
- (e) the impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland,*
- (f) the impact on the Western Parkland’s linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use,*
- (g) the impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of western Sydney,*
- (h) the impact on public access to the Western Parklands,*
- (i) consistency with:*
  - (i) any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or*
  - (ii) any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part,*
- (j) the impact on surrounding residential amenity,*
- (k) the impact on significant views,*
- (l) the effect on drainage patterns, ground water, flood patterns and wetland viability,*
- (m) the impact on heritage items,*
- (n) the impact on traffic and parking.*

The greenwaste facility is an approved use on the site and the proposed modification will not alter the nature of operations and its management as previously approved. The inclusion of additional area to the facility and addition of the mechanical workshop shed will not impact on the development, operation and management of the Western Parklands and access to it.

There are no additional impacts to residential amenity, significant views, heritage items and traffic and parking.

Overall the proposal is not considered to hinder the aims of the Policy as it involves the physical extension of an existing approved facility within an area used for waste management purposes.

- State Environmental Planning Policy (Infrastructure) 2007

This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW.

Division 23 of the SEPP applies to waste or resource management facilities. The subject facility falls under the definition of resource recovery facility as follows:

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

In addition a ‘waste or resource management facility’ means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

Clause 121(1) provides that development for the purpose of waste or resource management facilities, may be carried out by any person with consent on land in a prescribed zone. As noted above Clause (6) of the SEPP (Western Sydney Parklands) 2009, identifies the site as a prescribed zone.

However, as previously noted, the greenwaste facility is a previously approved use on the site and the proposed modification is not considered to significantly alter the approved use of the site. As such SEPP (Infrastructure) 2007 does not affect the proposal.

- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been modified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been differed indefinitely or has not been approved); and***

No such instrument applies to this proposal.

- (iii) any development control plan; and***

No development control plans apply to this proposal.

- (iv) any planning agreement that has been entered into under section 93F, to any draft planning agreement that a developer has offered to enter into under section 93F, and***

No planning agreement entered into under section 93F applies to the existing consent or the proposed modification.

- (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

The facility is classified as designated development under Clause 32 of Schedule 3 of the regulations. However Clause 35 of Schedule 3 states:

*Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent*

*authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.*

In this regard, this Statement indicates that the proposed modification will not significantly increase the environmental impacts of the total development and is therefore not designated development under the regulations.

Additionally the regulations make certain requirements with respect to applications for Modification of Consents under S.96(2) pertaining, in particular, to content of the application (s.115) and public participation in the assessment process (s.118). The application and its assessment will be consistent with these requirements.

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

The modification application is to extend the existing consent to allow a minor extension of the approved footprint and to incorporate various adjunct facilities including a maintenance zone (workshop shed, fuel supply area, water tanks and manoeuvring area and amenities block). The additional area extends onto previously unoccupied land to the south of the existing facility. The modification does not change the currently approved tonnages being processed by the facility.

The Statement of Environmental Effects (**SEE**), prepared by ERM (2003) for modification to expand the capacity of the existing green waste processing facility (MOD-94-9-2003i; 17 November 2004) assessed the impact of the proposal under the following headings:

- Land use
- Groundwater
- Drainage and Water Quality
- Air Quality
- Noise
- Flora and Fauna
- Visual Impacts
- Archaeology and heritage
- Traffic and Access
- Waste
- Hazardous Material
- Utilities and Services
- Public and Worker Safety
- Fire Safety
- Cumulative Impact

In order to illustrate the impacts of this Modification in comparison with the 2004 Consent, each of these matters is briefly discussed below.

- Land use

The proposed modification to extend the greenwaste platform as discussed in this statement is contained wholly within the Eastern Creek WRC. Operations of the facility are integrated with other waste management activities on the site and there will be no significant impact on surrounding land uses.



- Groundwater

The greenwaste platform (including the extension area subject of this modification) is covered with a low permeable shale/clay hardstand, effectively preventing any seepage of surface water into any underlying groundwater. Existing bores are used to monitor any changes in groundwater conditions and monitoring is undertaken in accordance with relevant Environmental Planning Licence (**EPL**) conditions.

- Drainage and Water Quality

The western platform continues to drain to the ANL dam, situated to the west of the platform whilst the eastern platform drains to the dam situated to the north-east of the eastern platform. There are no proposed changes to the drainage arrangements on site. The SEE concluded, following hydraulic analysis and modelling, that both dams could be expected to overflow less than once in 10years on average. Additionally water quality is monitored in accordance with the requirements of the EPL for the site.

- Air Quality

Air quality impacts were discussed in the SEE with respect to dust and odour. Dust minimising measures were noted in the SEE and ongoing monitoring of dust is carried out on site. Dust emissions would not change as a result of the proposal and impacts would remain acceptable.

An odour assessment was undertaken by PAEHolmes (formerly Holmes Air Sciences) to assess the potential impact of extending the site area of the existing greenwaste operation. A statement from PAEHolmes is contained in Appendix A.

The statement notes:

*“We understand that the modification would not result in any increase in input tonnage or production rate; therefore any increase in odour impacts is very unlikely. However as the source of odour is stockpiled greenwaste/composted material, it is possible that there could be an increase in the emitting surface area given that there is potential to spread the material out further. This is unlikely, given that the site operations would not change and the purpose of the expansion is to allow more efficient operation of the site which could be hindered by a significant increase in stockpile area.”*

As such, given that there will be no change to current operations on site, the proposed extension will not result in an increase in odour from the facility.

- Noise

The SEE demonstrated compliance with noise level restrictions applied by the EPL for the site. As noted above, there are no proposed changes to the current operation of the facility and as such there will be no additional noise impacts. Ongoing noise monitoring is carried out on site to ensure continued compliance with noise limits.

- Flora and Fauna

The proposed extension will not have any affect on flora and fauna as the extended area utilises an existing cleared area.

- Visual Impacts

There will be no additional visual impacts on the surrounding area as the proposed extension will be located within the existing waste management facility and cannot be viewed from outside the Eastern Creek WRC.

Additionally there is existing planting along the eastern, western and southern boundaries that provides additional screening and improves the overall appearance of the site.

- Archaeology and Heritage

The SEE stated that there are no heritage listed items or known items of archaeological significance on or near the site.

- Traffic and Access

As the modification does not change the existing operations and management of the facility, there will be no increase in traffic accessing the site. Also, there are no changes to existing access arrangements onsite.

- Waste

Given that there are no proposed changes to the operations on site, the handling of any wastes will remain unchanged. As noted in the SEE, the only wastes onsite relate to contaminants in the greenwaste. These wastes are removed from the green waste prior to processing and are recycled or disposed of to landfill as appropriate.

- Hazardous Material

The handling of any potential hazardous wastes remains unchanged on site. Any Hazardous wastes brought to the site are separated and disposed of to a premises licensed to accept hazardous materials.

- Utilities and Services

The amenities building is serviced by a bio-septic system. The site is connected to reticulated water and electricity is supplied via existing services to the WRC.

- Public and Worker Safety

The facility has a Site Safety Management Plan and System in place; Environmental risk assessment, including OH & S assessment conducted in accordance with the site's EMP. Additionally, site workers are inducted to the site and trained accordingly.

- Fire Safety

There will be no change to current fire management practises on site. Fire management practices are outlined in the facility's Fire Management Plant. Fire fighting equipment is accessible on site and site staff are trained to manage any fire outbreaks.

- Cumulative Impact

Operation of the current facilities creates positive cumulative impacts at social, economic and environmental levels. The proposed amendments will have no negative impacts and will contribute to these existing positive impacts.

**(c) *The suitability of the site for the development;***

The greenwaste facility has been operating on the site since it was approved in 1996. The additional area that is the subject of this application extends onto previously unused land to the south of the existing facility. The proposed modification is to alter the footprint of the facility and include a mechanical workshop shed. It will not change the nature or intensity of the operations of the facility. The workshop shed, which is necessary for the operations of the facility, is built on the extended site as it provides a stable building platform on unfilled land in preference to the currently approved area which incorporates only filled land which may be unsuitable for building construction. On this basis it is considered that the site will remain suitable for the development as modified.

**(d) *Any submissions made in accordance with this Act or the regulations;***

Submissions made to the notification of the proposed modification will be considered by the applicant and the proposal will be amended if required prior to final consideration by the Minister.

**(e) *The public interest***

The facility receives and processes greenwastes from local council areas, from other WSN transfer stations and from commercial contractors into quality compost products. As noted above there will be no change to the management and operation of the facility. The facility will continue to service the green waste recycling needs of the area.

The proposed modification will allow for more efficient operations to be carried out on site and allow the facility to better service the needs of the public in this respect with no impacts to the amenity of the locality.

The overall outcome of this assessment is that the proposed modification is considered to have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act

## **7.0 CONCLUSIONS**

The proposed extension of the greenwaste facility is required to allow for more efficient operations to occur on site. In addition the extension includes a workshop building that could not be located within the approved footprint of the site given the hazards of such construction on filled land.

The proposal is to modify the Ministers Consent 29/19 dated 2 June 1996 (as modified on 17 November 2004 and 6 July 2007) by addition of the workshop building and by modifying Condition 4 to allow extension onto the adjoining allotment over a total additional site area of 0.95 hectares.

This assessment has indicated that the proposed modification is consistent with the requirements of S.96(2) of the *Environmental Planning and Assessment Act 1979* in that:

- The modification will result in 'substantially the same development' as that originally approved; and
- The development will have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

Given the minor nature of the proposal and that there is not considered to be any additional impacts or changes to current operations on site, the proposed modification is considered substantiated.

**APPENDIX A: ODOUR IMPACT STATEMENT**



## **EASTERN CREEK WASTE AND RECYCLING CENTRE**

**APPLICATION UNDER S.96(2) OF THE *ENVIRONMENTAL  
PLANNING AND ASSESSMENT ACT 1979* TO MODIFY THE  
MINISTERS CONSENT NO. S29/19 (2 JULY 1996):**

**WORKSHOP BUILDING AND EXTENSION OF GREEN WASTE  
PLATFORM AREA**

***STATEMENT OF ENVIRONMENTAL EFFECTS***

**26 March 2010**

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## 1.0 INTRODUCTION

WSN Environmental Solutions (**WSN**) operates the Eastern Creek Waste & Recycling Centre (**WRC**) located off Wallgrove Road, Eastern Creek on land partially owned by Department of Planning (**the Department**) and partially owned by WSN. As consented, the Eastern Creek Green Waste Facility (**the facility**) operates within the greater Eastern Creek site on Lot 2, DP 1073820. This lot incorporates land leased from the Department and sub-leased by WSN to Australian Native Landscapes (**ANL**) the operator of the facility. In its current configuration, the facility also occurs partially on Lot 11, DP 1048435, land in the ownership of WSN.

The Facility operates under the Minister's development consent no. SEPP29/19 dated 2 July 1996 as modified on 12 October 1997, 17 November 2004 and 6 July 2007. Condition 4 of this consent reads:

*"The facility is to be restricted to the designated 3.5 hectare site in the first stage and the final stage of the development involving a second additional 2.2 hectare site, as per the plans contained in the Eastern Creek Waste Processing Facility EIS, July 1995. Any further expansion of the development site will require separate development consent."*

The footprint of the facility has extended beyond its originally approved 5.7 ha limit and now covers a total area of 6.65 hectares. The extended area supports a workshop shed, a refuelling bay, water tanks and minor encroachments of existing stockpiles. This application seeks to modify Consent S29/19 under S.96(2) of the *Environmental Planning and Assessment Act, 1979 (the Act)* to provide for extension of the greenwaste facility footprint and to allow the operations that are not subject to the existing consents.

## 2.0 SITE PARTICULARS (Figures 1 & 2)

The Eastern Creek WRC is located on part of Lot 1 and 2 DP1073820, Lot 11 DP1048435, Lot 2 DP1059698 and Lot 12 DP1049029 off Wallgrove Road, Eastern Creek. Lot 11 DP1048435 and Lot 2 DP1059698 in the south is owned by WSN, while the remainder of the site is leased from the NSW Department of Planning (refer Figure 1).

The Eastern Creek WRC is located off Wallgrove Road, Eastern Creek, within the Blacktown Local Government Area (LGA).

Completed landfill Areas 1 to 4, are located on the western side of Eastern Creek WRC within the area known as Eastern Creek 1. Eastern Creek 2 landfill is divided into areas referred to as the 'Southern Cells' and the 'Northern Cells' (cells 4, 6 and 7). Landfilling operations are now complete at the Southern Cells, with rehabilitation works currently planned. Landfill operations are currently carried out at the 'Northern Cells'.

In addition WSN also operates a leachate treatment plant, subleases to Energy Developments Ltd (**EDL**) who operate a landfill to gas power plant situated at the Wallgrove Road entrance to the site and also operates their own landfill gas power plant in conjunction with Landfill Management Services Pty (**LMS**). Figure 2 shows an aerial view of the facilities at the site and surrounds.

The Green Waste Processing Facility is located within the area known as Eastern Creek 1. Under the current consent it operates on Lot 2, DP 1073820. A survey of the Green Waste Processing Facility is contained in Figure 3.



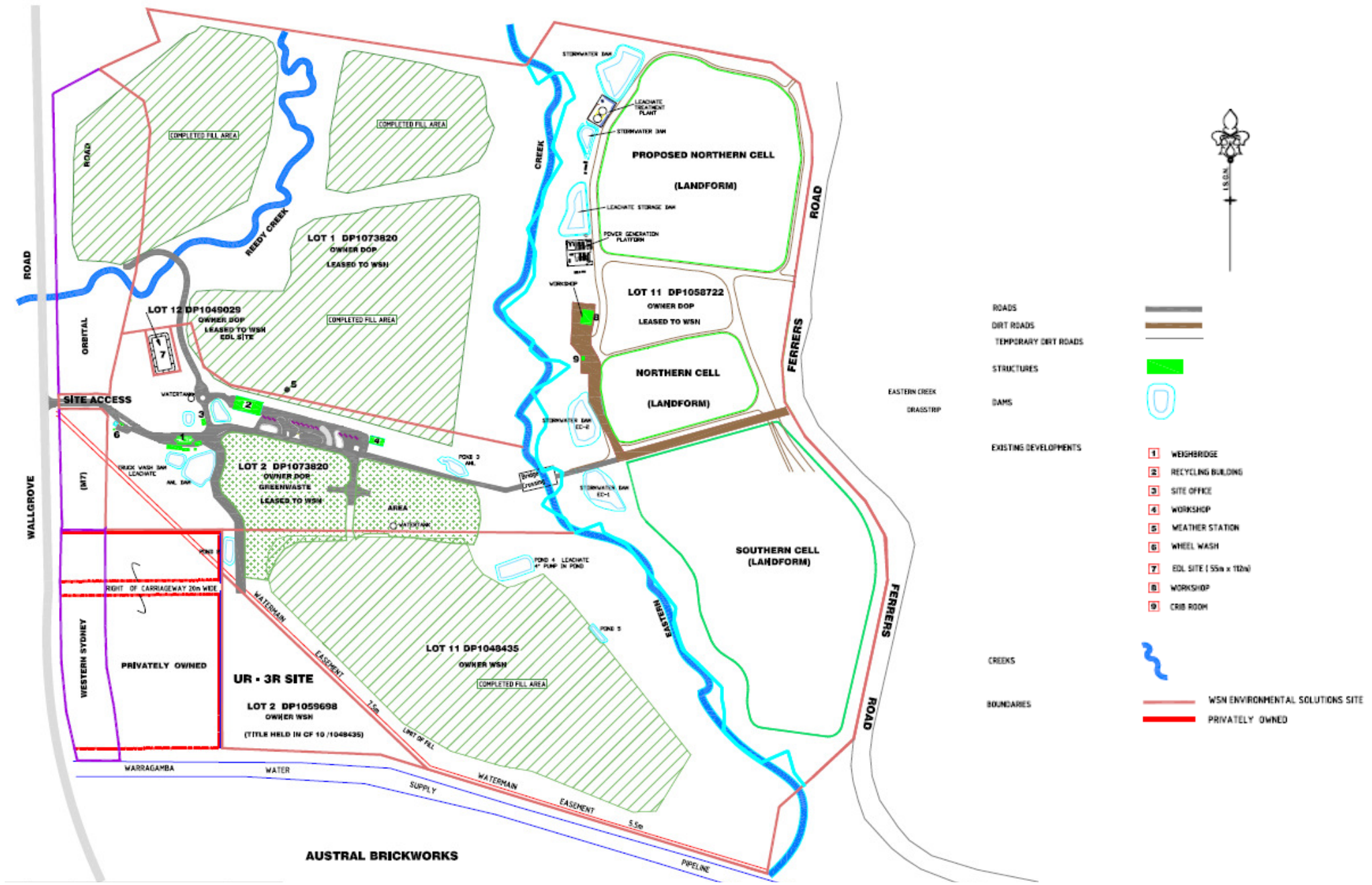


Figure 1: Site Plan and Cadastral information (Subject Site stippled green)  
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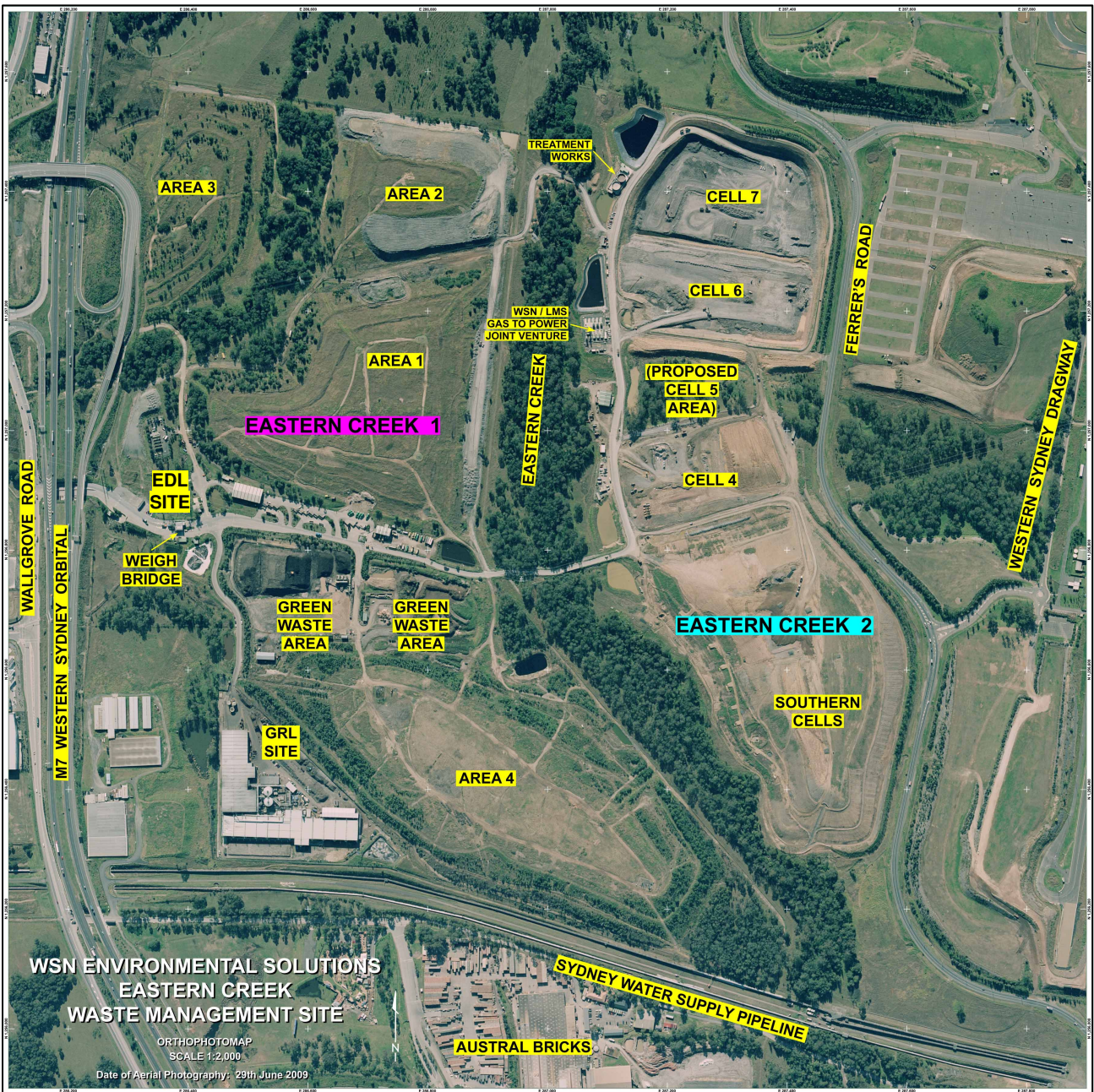


Figure 2: Eastern Creek Site Plan and Surrounds

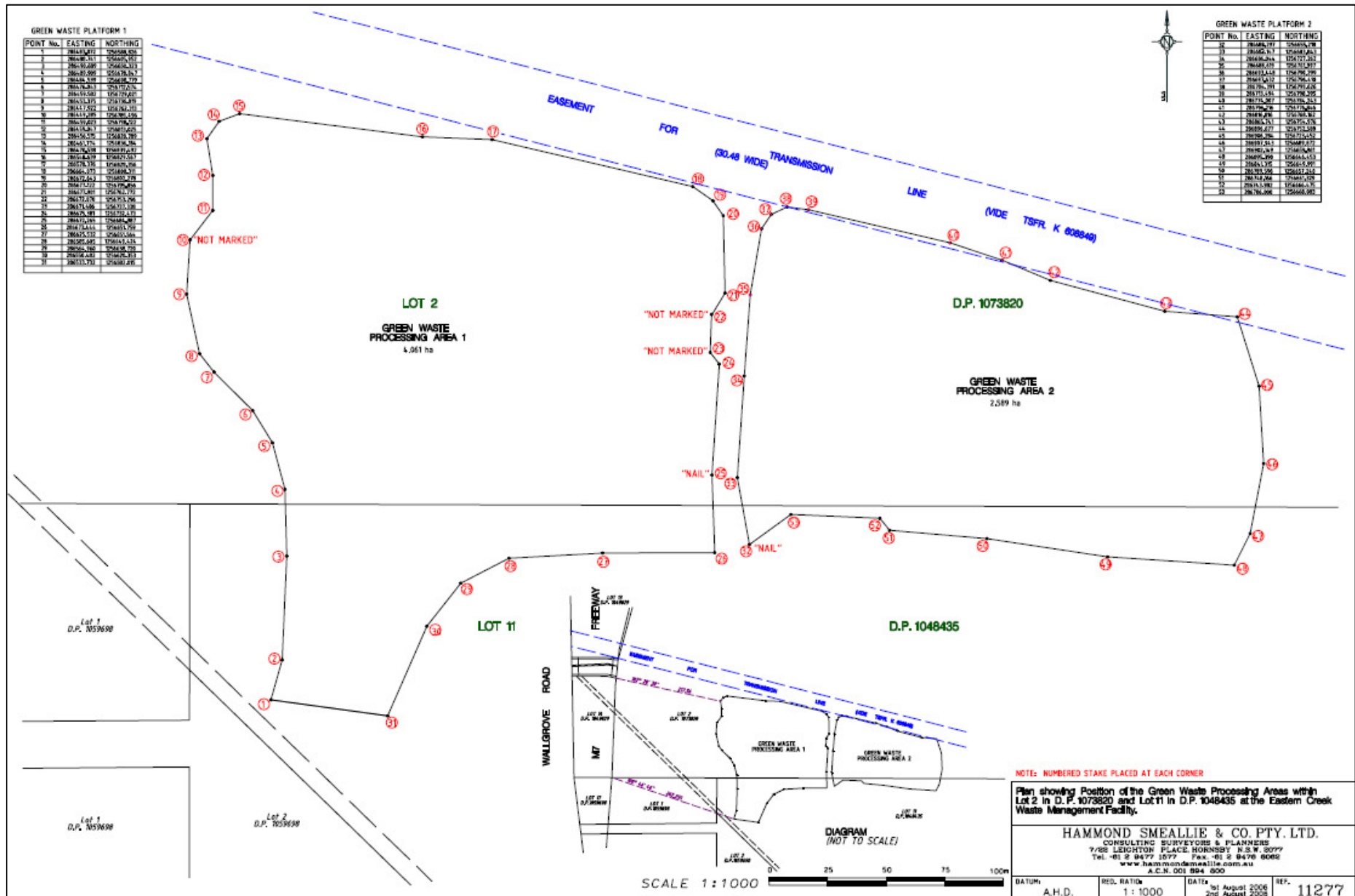


Figure 3: Site Survey of Greenwaste platforms)

### 3.0 CONSENT HISTORY

The following consent and modifications are of relevance to this application:

- Original Consent – Minister’s approval, S29/19 (2 June 1996), for development of a green waste processing facility.
- Modification to add a ‘Trial Aerated Static Pile Facility’ (S29/19-mod; 12 October 1997)
- Modification to expand the capacity of the existing green waste processing facility, including an increase in tonnages, upgrade works, replacement of administration buildings, establishment of vehicle parking and changes to stockpile configurations (MOD-94-9-2003i; 17 November 2004)
- Modification to modify the hours of operation of the green waste processing facility (MOD-53-6-2007i; 6 July 2007)

The **original consent (SEPP29/19, dated 2 June 1996)**, approved the development of a greenwaste processing facility, including:

- Construction of two platforms with sufficient area to accommodate receipt, shredding, composting, stockpiling and dispatching of greenwaste.
- Approval to handle up to 50,000 tonnes of greenwaste per year.
- Operations to initially occur on the western platform (with a site area of 3.5 hectares), with the eastern platform (site area of 2.2 hectares) earmarked for future expansion (refer Figure 4).

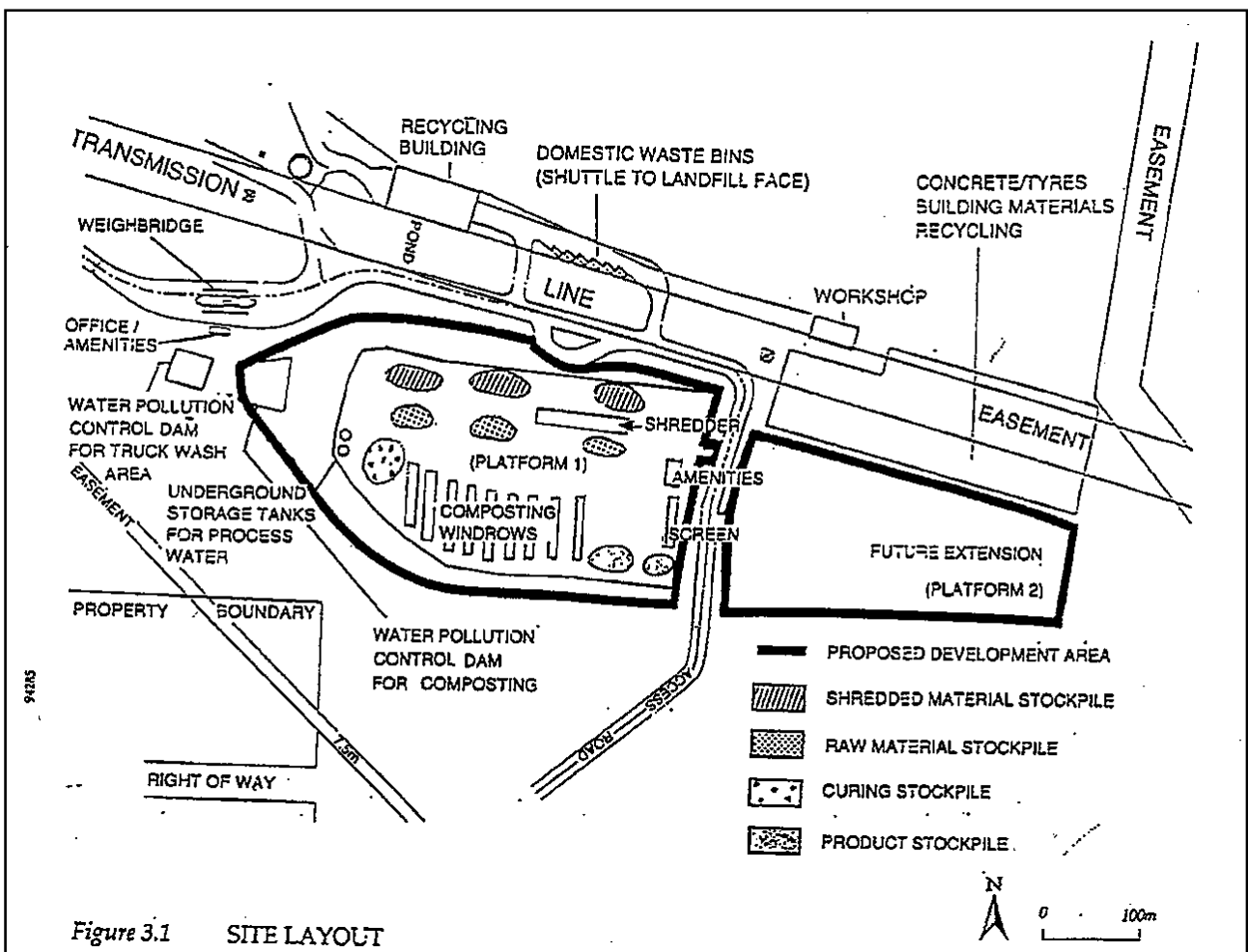


Figure 4: Site Layout as per consent no. S29/19 (2 June 1996)

Subsequently the site layout was altered via **MOD-94-9-2003i** (dated 17 November 2004). This modification approved the expansion of the greenwaste processing facility, including:

- An increase in accepted tonnages to 80,000 tonnes per annum;
- Major upgrade works which altered the site layout of the facility.
- A new portable building on the eastern platform (to replace the original administration building that was destroyed by fire in 2002).
- A vehicle parking and equipment maintenance area (on the western platform near the southern boundary of the site); and
- Changes to the stockpile configurations within the originally consented 5.7ha footprint (as illustrated below in Figures 5 and 6).

A copy of the site layout from the Statement of Environmental Effects, prepared by Mitchell McCotter for this modification is contained in Figures 5 and 6.

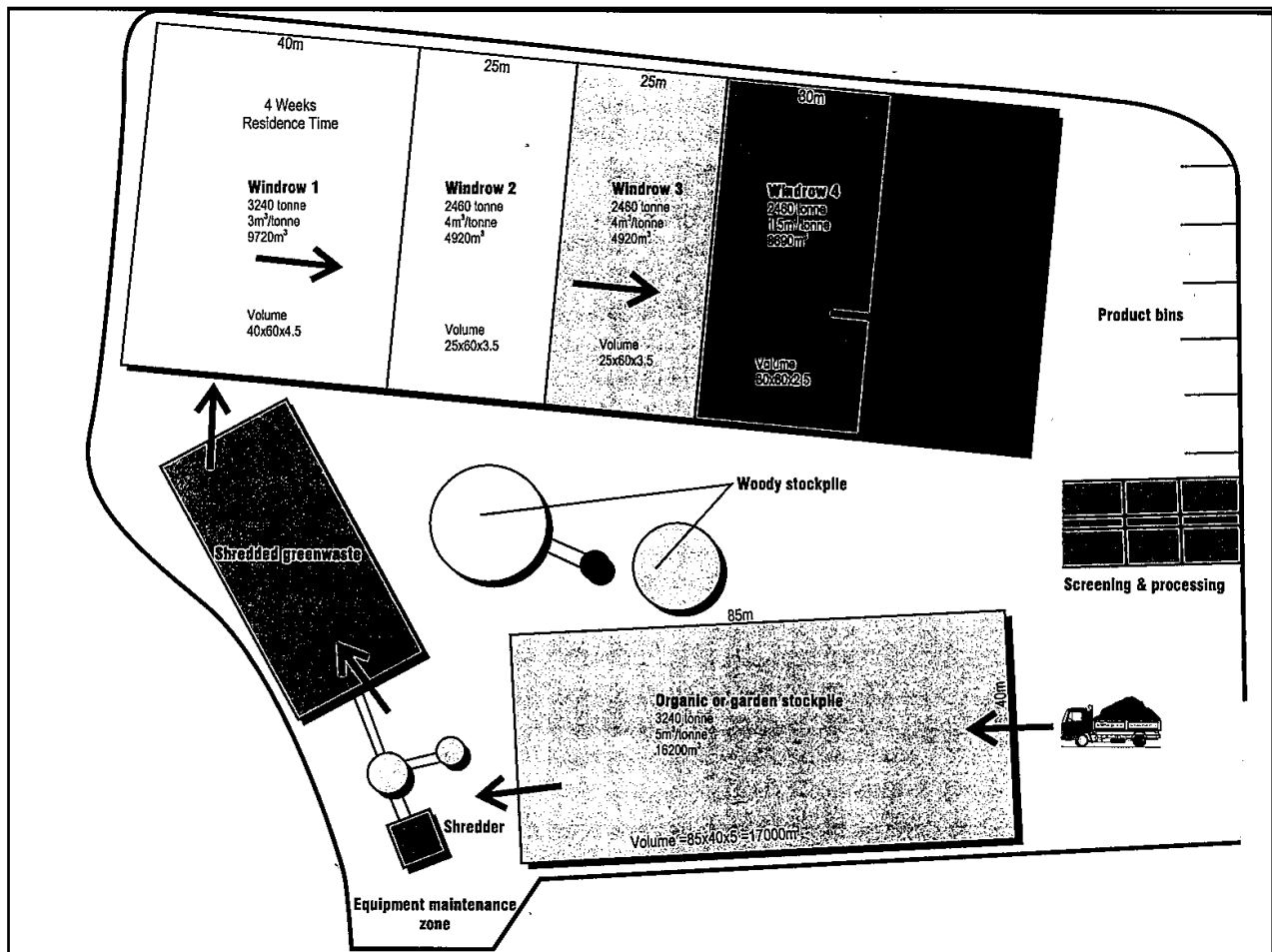


Figure 5: Western Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

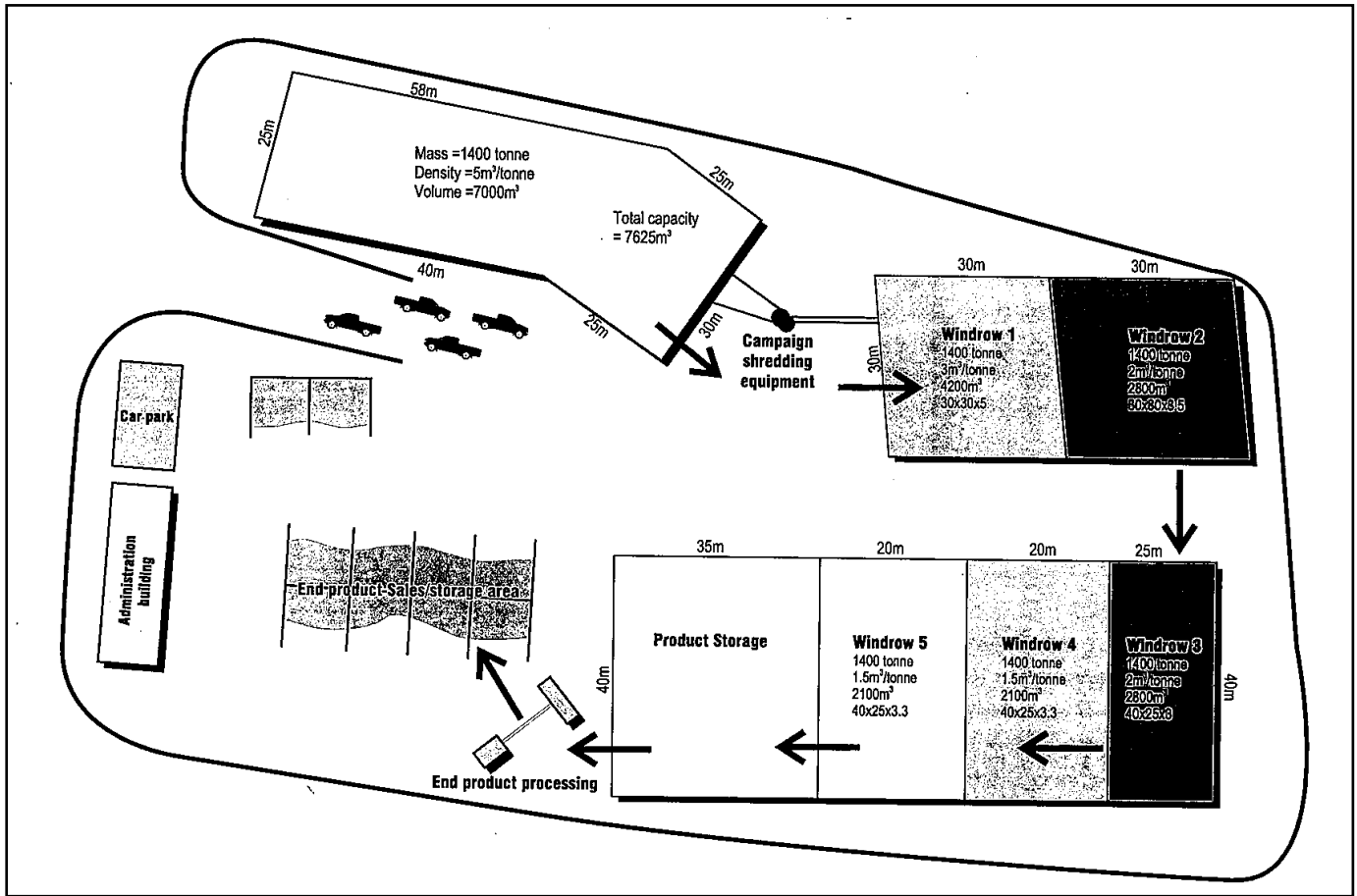


Figure 6: Eastern Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

#### 4.0 PROPOSED MODIFICATION

As approved the site occupies 5.7 hectares of closed former landfill area and consists of two platforms - the western platform (3.5 hectares) and the eastern platform (2.2 hectares), all within Lot 2 DP1073820.

The proposal seeks to modify Condition 4 of the original consent to allow for:

- the continued operation of the facility over a larger area beyond the 5.7 hectares consented by this condition (approval is sought for an extension of the area of the facility to the south onto Lot 11 DP 1048435, involving an addition of 0.95 hectares and resulting in a new total area of 6.65 hectares);
- an existing steel workshop building of dimensions 30m x 12m and 6m high on an extension to the western platform;
- sundry additional structures (an amenities building of dimensions 8.5m x 3m and 2.4m high, a refuelling bay and 3 4.4m diameter x 3m high water tanks); and
- Some minor encroachments of the eastern and western stockpile areas

The extended area will primarily encompass the unfilled land that previously formed a buffer between the approved greenwaste platform area and the Area 4 landfill. The new boundaries follow the natural landform, and are consistent with the contours that define the edge of the former Area 4 landfill

The proposal generally maintains the same layout and operations as previously approved in Modification No. MOD-94-9-2003i and as shown in figures 5 and 6. The

operations will be simply occurring on a slightly larger footprint than was originally approved.

The proposal will not result in any increase to production or input tonnages and no changes to current operations or management of the facility are proposed. The modified footprint will simply allow for more efficient operations to be carried out on site.

Figure 7 illustrates the existing approved area and the extension that is requested to be consented in this application.

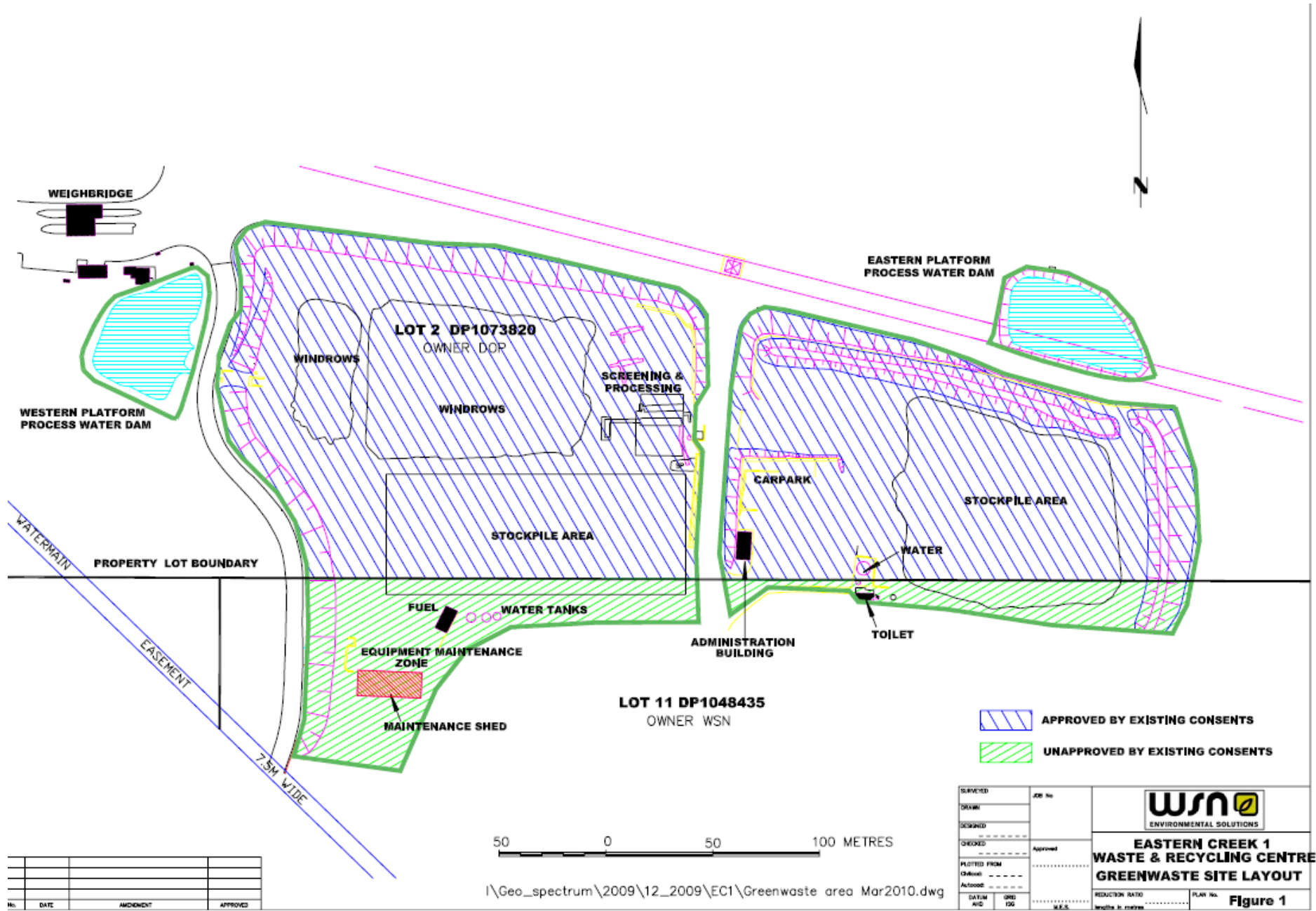


Figure 7: Existing approved area and proposed extension



## 5.0 JUSTIFICATION FOR THE PROPOSAL

In comparison with the existing consent regime, current operations at the Green Waste Processing facility are not materially changed by the modifications proposed in this application, notwithstanding that they occur over a marginally larger footprint than consented.

The marginal extension of the operational area of the facility has occurred on previously unused land that acted as a buffer to the landfill activities on the former Area 4 landfill (see Figure 1). When the Area 4 landfill was closed in 2002, the buffer became redundant and the use of the land for operational purposes became viable for the purposes of improving the efficiency of operations of the greenwaste facility. The land is unfilled, vacant and arguably of no value for other purposes within the current range of activities occurring on the greater Eastern Creek WRC site. For this reason, it is considered that extension of the greenwaste facility operations is an appropriate and acceptable use of the land.

In essence, the extended area supports activities that are adjunct to the operations of the greenwaste facility. These include:

- An equipment maintenance zone on the extension to the western platform, including the maintenance shed, vehicle manoeuvring area, refuelling facility and water tanks. This area is used exclusively for storage and maintenance of equipment used by the greenwaste facility (refer to photos 1 and 2).
- Minor portions of the western and eastern stockpiles; and
- The amenities block, also used exclusively by the greenwaste facility.

The extended configuration of the site is generally consistent with the currently approved site layout, (refer to figures 5, 6 and 7), arranged over a marginally extended site area the limits of which are essentially dictated by the finished contours of the Area 4 landfill, which forms a natural boundary to the new area.



*Photo 1: Maintenance Shed and Equipment Maintenance zone (Source: WSN)*



*Photo 2: Refuelling facility and water tanks (Source: WSN)*

Critically, the extension supports only facilities that were approved in the modified consent, located on stable, unfilled land that is suitable for construction and for heavy vehicular traffic. Moreover, the facility in its extended form receives no additional tonnage of processing materials over and above the current consent as modified.

Overall there will be no additional impact from the extension of the site area as the facility will generally maintain its current operational and management procedures.

When the above outcomes are taken into account in combination with the minimal environmental impacts identified in this Statement, it is considered that the proposed modification is justified.

## 6.0 PLANNING COMPLIANCE

This application has been prepared pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*. Section 96(2) permits the Consent Authority to modify a Consent after the consideration of the following:

1. Whether the modification will result in 'substantially the same development' as that originally approved; and
2. whether the development has acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

An assessment of the proposal under each of these points follows:

### 6.1 *Substantially the same development*

It is considered that the modification is substantially the same development as currently consented for the following reasons:

- the proposal is for the continued operation of the facility in the same manner as originally approved and the proposed increase in the site area and addition of the workshop shed will not alter the production capacity of the existing facility.
- the processes and management of the operations at the facility will remain the same as outlined in the original application for development consent as modified (consent No. s29/19 dated 2 June 1996 as modified on 17 November 2004 and 6 July 2007).
- The proposed modification is minor in nature and is not considered likely to result in any unacceptable environmental impacts.

#### 6.1.1 Extension of the development into another lot

The original consent applied to Lot Y in DP 376524, which became Lot 11 in DP 1049029 and subsequently Lot 2 in DP 107820, as it is currently known. An issue arises as to whether the consent applying to this lot can be modified to extend onto the allotment to the south (Lot 11 DP 1048435).

The following table provides a summary of the consents applying to the greenwaste facility and the relevant land descriptions.

Consent No.	Date	Consent for:	Lots in land description
S29/19	2 June 1996	Development of greenwaste facility	Lot Y DP376524
S29/19-mod	12 October 1997	Trial aerated static pile facility	n/a
Mod-94-9-2003i	17 November 2004	Expand capacity of facility. Including increase in tonnages, upgrade works, replacement of administration buildings, vehicle parking and changes to stockpile configuration	Lot 11 DP1049029 (formerly Lot Y DP376524) and Lot 11 DP1048435
Mod-53-3-2007i	6 July 2007	Modification to hours of operation	Lot 2 DP1073820 (formerly Lot11 DP1049029)

As noted in the table above the lot numbers as listed in the land description for the original consent and subsequent modifications vary. The lot where the increase in site area is proposed – Lot 11 DP1048435 – is listed in the modification consent for the expansion of the facilities capacity. In effect, therefore, the current consent as modified applies to both land parcels.

Notwithstanding this, the validity of the proposed extension being considered as a modification under section 96(2) is supported in a recent court appeal against the refusal of an application under section 96(2) to modify a development consent to expand the area of land used for the development approved by the consent [*Scrap Realty Pty Limited v Botany City Council* [2008] NSW LEC333 (19 Dec 2008)].

In this matter, the Court held that the consent authority has the power to modify a consent so that it applies to land additional to that to which the original consent applied provided that the consent authority is satisfied the modification will result in a development which is substantially the same as that which was originally consented.

The Commissioner commented that:

*As far as the condition precedent is concerned, the alteration is of “the development” – it expands the area on which development is carried out. There obviously will be questions of fact and degree in ascertaining whether the development before and after modification can be said to be substantially the same. Nevertheless, an expansion of the area on which development is carried out by adding land not the subject of the original consent is not inherently outside the concept of modification of the development under s.96. (Scrap Realty Pty Ltd v Botany City Council [2008] 19 LEC333)*

Given the conclusion of this assessment that the proposal will result in substantially the same development as currently approved, the extension of the facility onto the adjoining allotment is considered consistent with the legal precedent set by the Court and should not preclude approval of the modification.

## **6.2 Matters of consideration in Section 79C of the Act**

An assessment of the proposal against the relevant matters for consideration is contained below:

### **(a) the provisions of:**

#### **(i) any environmental planning instrument,**

- State Environmental Planning Policy (Western Sydney Parklands) 2009

This State Environmental Planning Policy (SEPP) applies to all lands within the Western Sydney Parklands, including the area of the Eastern Creek WRC. The aim of the Policy is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Sydney Parklands into a multi-use urban parkland for the region of Western Sydney.

Clause 9 of the Policy provides that land within the Parklands is unzoned. However clause 6(2) states that Part 3 of the *State Environmental Planning Policy (Infrastructure) 2007* applies to the Western Parklands as if it was in a prescribed zone under that policy.

Clause 11 of SEPP (Western Sydney Parklands) provides that the following development may be carried out without development consent but only if it is carried out by or on behalf of a public authority:

*“cafes; community facilities; entertainment facilities; environmental facilities; environmental protection works; function centres; information and education facilities; kiosks; landscaping; maintenance depots; public administration buildings; recreation areas; recreation facilities (outdoor); signage (for directional, informative, or interpretative purposes); ticketing facilities.”*

Other developments, excluding development for the purposes of residential accommodation may be carried out in the parklands only with development consent.

Clause 12 of the Policy sets out the matters to be generally considered by a consent authority in determining a development application for development on land in the Western Parklands.

- (a) the aim of this Policy, as set out in clause 2,*
- (b) the impact on drinking water catchments and associated infrastructure,*
- (c) the impact on utility services and easements,*
- (d) the impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities,*
- (e) the impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland,*
- (f) the impact on the Western Parkland’s linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use,*
- (g) the impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of western Sydney,*
- (h) the impact on public access to the Western Parklands,*
- (i) consistency with:*
  - (i) any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or*
  - (ii) any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part,*
- (j) the impact on surrounding residential amenity,*
- (k) the impact on significant views,*
- (l) the effect on drainage patterns, ground water, flood patterns and wetland viability,*
- (m) the impact on heritage items,*
- (n) the impact on traffic and parking.*

The greenwaste facility is an approved use on the site and the proposed modification will not alter the nature of operations and its management as previously approved. The inclusion of additional area to the facility and addition of the mechanical workshop shed will not impact on the development, operation and management of the Western Parklands and access to it.

There are no additional impacts to residential amenity, significant views, heritage items and traffic and parking.

Overall the proposal is not considered to hinder the aims of the Policy as it involves the physical extension of an existing approved facility within an area used for waste management purposes.

- State Environmental Planning Policy (Infrastructure) 2007

This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW.

Division 23 of the SEPP applies to waste or resource management facilities. The subject facility falls under the definition of resource recovery facility as follows:

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

In addition a ‘waste or resource management facility’ *means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.*

Clause 121(1) provides that development for the purpose of waste or resource management facilities, may be carried out by any person with consent on land in a prescribed zone. As noted above Clause (6) of the SEPP (Western Sydney Parklands) 2009, identifies the site as a prescribed zone.

However, as previously noted, the greenwaste facility is a previously approved use on the site and the proposed modification is not considered to significantly alter the approved use of the site. As such SEPP (Infrastructure) 2007 does not affect the proposal.

- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been modified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been differed indefinitely or has not been approved); and***

No such instrument applies to this proposal.

- (iii) any development control plan; and***

No development control plans apply to this proposal.

- (iv) any planning agreement that has been entered into under section 93F, to any draft planning agreement that a developer has offered to enter into under section 93F, and***

No planning agreement entered into under section 93F applies to the existing consent or the proposed modification.

- (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

The facility is classified as designated development under Clause 32 of Schedule 3 of the regulations. However Clause 35 of Schedule 3 states:

*Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent*

*authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.*

In this regard, this Statement indicates that the proposed modification will not significantly increase the environmental impacts of the total development and is therefore not designated development under the regulations.

Additionally the regulations make certain requirements with respect to applications for Modification of Consents under S.96(2) pertaining, in particular, to content of the application (s.115) and public participation in the assessment process (s.118). The application and its assessment will be consistent with these requirements.

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

The modification application is to extend the existing consent to allow a minor extension of the approved footprint and to incorporate various adjunct facilities including a maintenance zone (workshop shed, fuel supply area, water tanks and manoeuvring area and amenities block). The additional area extends onto previously unoccupied land to the south of the existing facility. The modification does not change the currently approved tonnages being processed by the facility.

The Statement of Environmental Effects (**SEE**), prepared by ERM (2003) for modification to expand the capacity of the existing green waste processing facility (MOD-94-9-2003i; 17 November 2004) assessed the impact of the proposal under the following headings:

- Land use
- Groundwater
- Drainage and Water Quality
- Air Quality
- Noise
- Flora and Fauna
- Visual Impacts
- Archaeology and heritage
- Traffic and Access
- Waste
- Hazardous Material
- Utilities and Services
- Public and Worker Safety
- Fire Safety
- Cumulative Impact

In order to illustrate the impacts of this Modification in comparison with the 2004 Consent, each of these matters is briefly discussed below.

- Land use

The proposed modification to extend the greenwaste platform as discussed in this statement is contained wholly within the Eastern Creek WRC. Operations of the facility are integrated with other waste management activities on the site and there will be no significant impact on surrounding land uses.

- Groundwater

The greenwaste platform (including the extension area subject of this modification) is covered with a low permeable shale/clay hardstand, effectively preventing any seepage of surface water into any underlying groundwater. Existing bores are used to monitor any changes in groundwater conditions and monitoring is undertaken in accordance with relevant Environmental Planning Licence (**EPL**) conditions.

- Drainage and Water Quality

The western platform continues to drain to the ANL dam, situated to the west of the platform whilst the eastern platform drains to the dam situated to the north-east of the eastern platform. There are no proposed changes to the drainage arrangements on site. The SEE concluded, following hydraulic analysis and modelling, that both dams could be expected to overflow less than once in 10years on average. Additionally water quality is monitored in accordance with the requirements of the EPL for the site.

- Air Quality

Air quality impacts were discussed in the SEE with respect to dust and odour. Dust minimising measures were noted in the SEE and ongoing monitoring of dust is carried out on site. Dust emissions would not change as a result of the proposal and impacts would remain acceptable.

An odour assessment was undertaken by PAEHolmes (formerly Holmes Air Sciences) to assess the potential impact of extending the site area of the existing greenwaste operation. A statement from PAEHolmes is contained in Appendix A.

The statement notes:

*“We understand that the modification would not result in any increase in input tonnage or production rate; therefore any increase in odour impacts is very unlikely. However as the source of odour is stockpiled greenwaste/composted material, it is possible that there could be an increase in the emitting surface area given that there is potential to spread the material out further. This is unlikely, given that the site operations would not change and the purpose of the expansion is to allow more efficient operation of the site which could be hindered by a significant increase in stockpile area.”*

As such, given that there will be no change to current operations on site, the proposed extension will not result in an increase in odour from the facility.

- Noise

The SEE demonstrated compliance with noise level restrictions applied by the EPL for the site. As noted above, there are no proposed changes to the current operation of the facility and as such there will be no additional noise impacts. Ongoing noise monitoring is carried out on site to ensure continued compliance with noise limits.

- Flora and Fauna

The proposed extension will not have any affect on flora and fauna as the extended area utilises an existing cleared area.



- Visual Impacts

There will be no additional visual impacts on the surrounding area as the proposed extension will be located within the existing waste management facility and cannot be viewed from outside the Eastern Creek WRC.

Additionally there is existing planting along the eastern, western and southern boundaries that provides additional screening and improves the overall appearance of the site.

- Archaeology and Heritage

The SEE stated that there are no heritage listed items or known items of archaeological significance on or near the site.

- Traffic and Access

As the modification does not change the existing operations and management of the facility, there will be no increase in traffic accessing the site. Also, there are no changes to existing access arrangements onsite.

- Waste

Given that there are no proposed changes to the operations on site, the handling of any wastes will remain unchanged. As noted in the SEE, the only wastes onsite relate to contaminants in the greenwaste. These wastes are removed from the green waste prior to processing and are recycled or disposed of to landfill as appropriate.

- Hazardous Material

The handling of any potential hazardous wastes remains unchanged on site. Any Hazardous wastes brought to the site are separated and disposed of to a premises licensed to accept hazardous materials.

- Utilities and Services

The amenities building is serviced by a bio-septic system. The site is connected to reticulated water and electricity is supplied via existing services to the WRC.

- Public and Worker Safety

The facility has a Site Safety Management Plan and System in place; Environmental risk assessment, including OH & S assessment conducted in accordance with the site's EMP. Additionally, site workers are inducted to the site and trained accordingly.

- Fire Safety

There will be no change to current fire management practises on site. Fire management practices are outlined in the facility's Fire Management Plant. Fire fighting equipment is accessible on site and site staff are trained to manage any fire outbreaks.

- Cumulative Impact

Operation of the current facilities creates positive cumulative impacts at social, economic and environmental levels. The proposed amendments will have no negative impacts and will contribute to these existing positive impacts.

**(c) *The suitability of the site for the development;***

The greenwaste facility has been operating on the site since it was approved in 1996. The additional area that is the subject of this application extends onto previously unused land to the south of the existing facility. The proposed modification is to alter the footprint of the facility and include a mechanical workshop shed. It will not change the nature or intensity of the operations of the facility. The workshop shed, which is necessary for the operations of the facility, is built on the extended site as it provides a stable building platform on unfilled land in preference to the currently approved area which incorporates only filled land which may be unsuitable for building construction. On this basis it is considered that the site will remain suitable for the development as modified.

**(d) *Any submissions made in accordance with this Act or the regulations;***

Submissions made to the notification of the proposed modification will be considered by the applicant and the proposal will be amended if required prior to final consideration by the Minister.

**(e) *The public interest***

The facility receives and processes greenwastes from local council areas, from other WSN transfer stations and from commercial contractors into quality compost products. As noted above there will be no change to the management and operation of the facility. The facility will continue to service the green waste recycling needs of the area.

The proposed modification will allow for more efficient operations to be carried out on site and allow the facility to better service the needs of the public in this respect with no impacts to the amenity of the locality.

The overall outcome of this assessment is that the proposed modification is considered to have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act

## **7.0 CONCLUSIONS**

The proposed extension of the greenwaste facility is required to allow for more efficient operations to occur on site. In addition the extension includes a workshop building that could not be located within the approved footprint of the site given the hazards of such construction on filled land.

The proposal is to modify the Ministers Consent 29/19 dated 2 June 1996 (as modified on 17 November 2004 and 6 July 2007) by addition of the workshop building and by modifying Condition 4 to allow extension onto the adjoining allotment over a total additional site area of 0.95 hectares.

This assessment has indicated that the proposed modification is consistent with the requirements of S.96(2) of the *Environmental Planning and Assessment Act 1979* in that:

- The modification will result in 'substantially the same development' as that originally approved; and
- The development will have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

Given the minor nature of the proposal and that there is not considered to be any additional impacts or changes to current operations on site, the proposed modification is considered substantiated.

**APPENDIX A: ODOUR IMPACT STATEMENT**



## **EASTERN CREEK WASTE AND RECYCLING CENTRE**

**APPLICATION UNDER S.96(2) OF THE *ENVIRONMENTAL  
PLANNING AND ASSESSMENT ACT 1979* TO MODIFY THE  
MINISTERS CONSENT NO. S29/19 (2 JULY 1996):**

**WORKSHOP BUILDING AND EXTENSION OF GREEN WASTE  
PLATFORM AREA**

***STATEMENT OF ENVIRONMENTAL EFFECTS***

**26 March 2010**

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## 1.0 INTRODUCTION

WSN Environmental Solutions (**WSN**) operates the Eastern Creek Waste & Recycling Centre (**WRC**) located off Wallgrove Road, Eastern Creek on land partially owned by Department of Planning (**the Department**) and partially owned by WSN. As consented, the Eastern Creek Green Waste Facility (**the facility**) operates within the greater Eastern Creek site on Lot 2, DP 1073820. This lot incorporates land leased from the Department and sub-leased by WSN to Australian Native Landscapes (**ANL**) the operator of the facility. In its current configuration, the facility also occurs partially on Lot 11, DP 1048435, land in the ownership of WSN.

The Facility operates under the Minister's development consent no. SEPP29/19 dated 2 July 1996 as modified on 12 October 1997, 17 November 2004 and 6 July 2007.

Condition 4 of this consent reads:

*"The facility is to be restricted to the designated 3.5 hectare site in the first stage and the final stage of the development involving a second additional 2.2 hectare site, as per the plans contained in the Eastern Creek Waste Processing Facility EIS, July 1995. Any further expansion of the development site will require separate development consent."*

The footprint of the facility has extended beyond its originally approved 5.7 ha limit and now covers a total area of 6.65 hectares. The extended area supports a workshop shed, a refuelling bay, water tanks and minor encroachments of existing stockpiles. This application seeks to modify Consent S29/19 under S.96(2) of the *Environmental Planning and Assessment Act, 1979 (the Act)* to provide for extension of the greenwaste facility footprint and to allow the operations that are not subject to the existing consents.

## 2.0 SITE PARTICULARS (Figures 1 & 2)

The Eastern Creek WRC is located on part of Lot 1 and 2 DP1073820, Lot 11 DP1048435, Lot 2 DP1059698 and Lot 12 DP1049029 off Wallgrove Road, Eastern Creek. Lot 11 DP1048435 and Lot 2 DP1059698 in the south is owned by WSN, while the remainder of the site is leased from the NSW Department of Planning (refer Figure 1).

The Eastern Creek WRC is located off Wallgrove Road, Eastern Creek, within the Blacktown Local Government Area (LGA).

Completed landfill Areas 1 to 4, are located on the western side of Eastern Creek WRC within the area known as Eastern Creek 1. Eastern Creek 2 landfill is divided into areas referred to as the 'Southern Cells' and the 'Northern Cells' (cells 4, 6 and 7). Landfilling operations are now complete at the Southern Cells, with rehabilitation works currently planned. Landfill operations are currently carried out at the 'Northern Cells'.

In addition WSN also operates a leachate treatment plant, subleases to Energy Developments Ltd (**EDL**) who operate a landfill to gas power plant situated at the Wallgrove Road entrance to the site and also operates their own landfill gas power plant in conjunction with Landfill Management Services Pty (**LMS**). Figure 2 shows an aerial view of the facilities at the site and surrounds.

The Green Waste Processing Facility is located within the area known as Eastern Creek 1. Under the current consent it operates on Lot 2, DP 1073820. A survey of the Green Waste Processing Facility is contained in Figure 3.

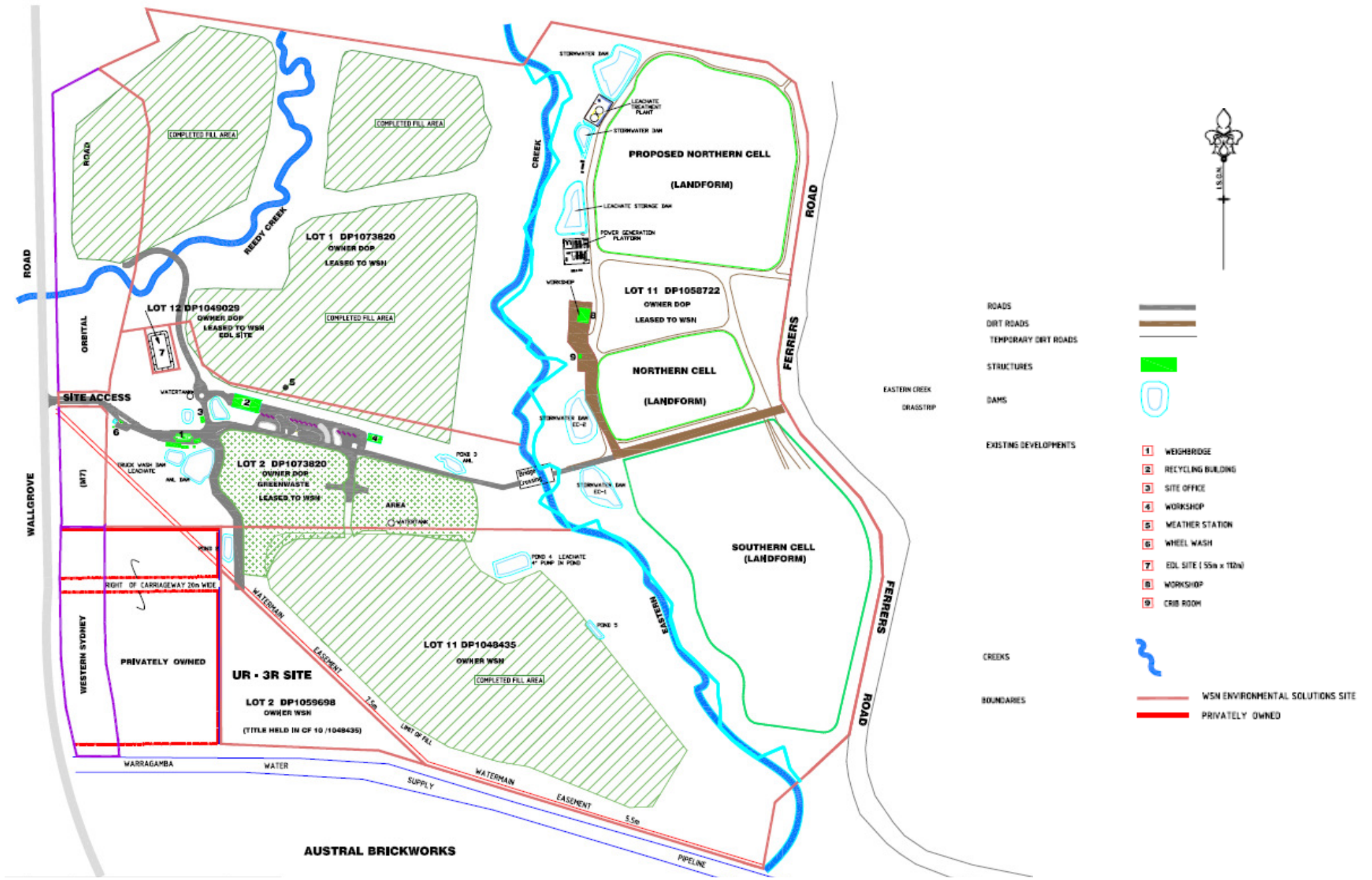


Figure 1: Site Plan and Cadastral information (Subject Site stippled green)  
Page 4



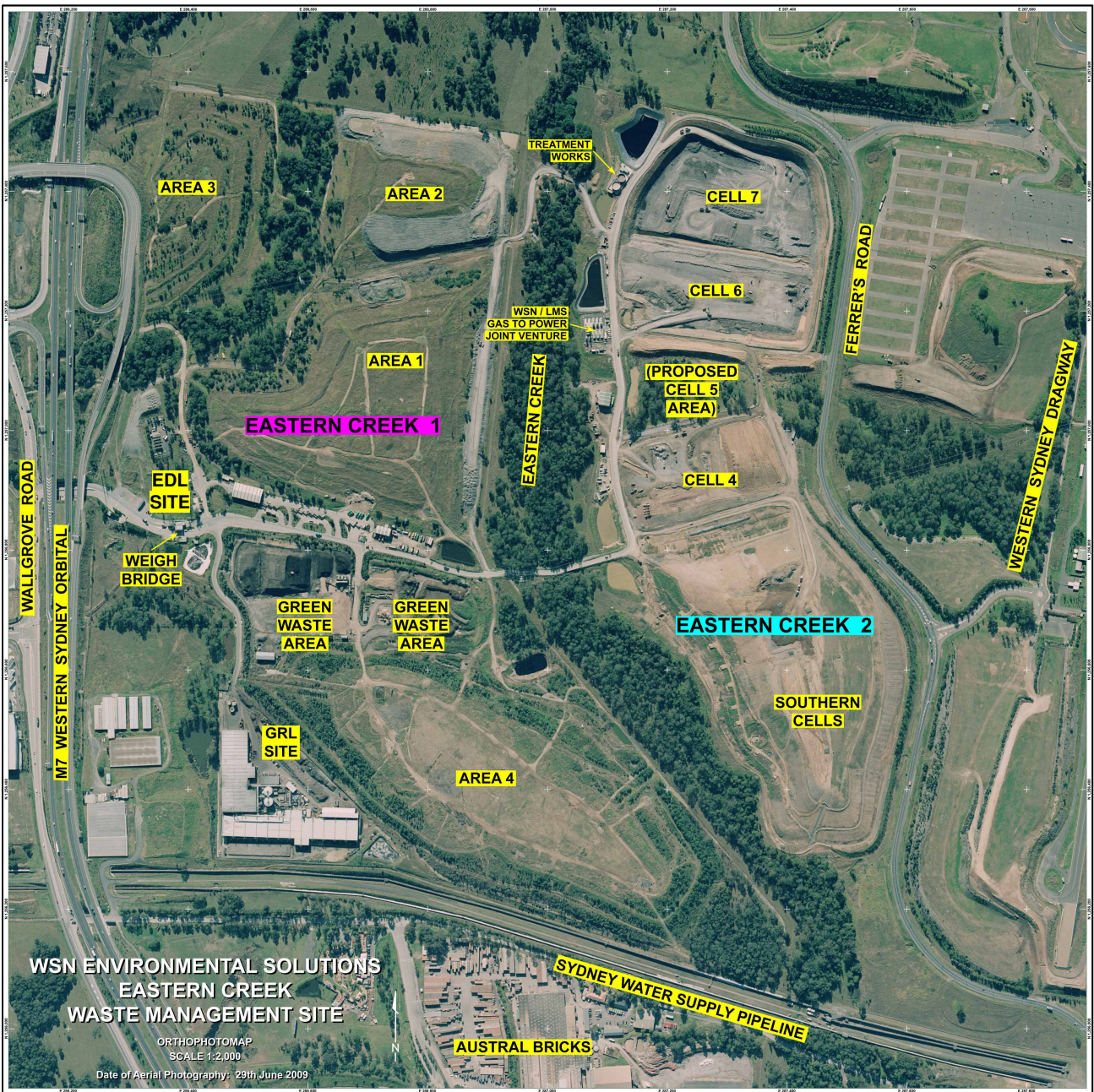


Figure 2: Eastern Creek Site Plan and Surrounds

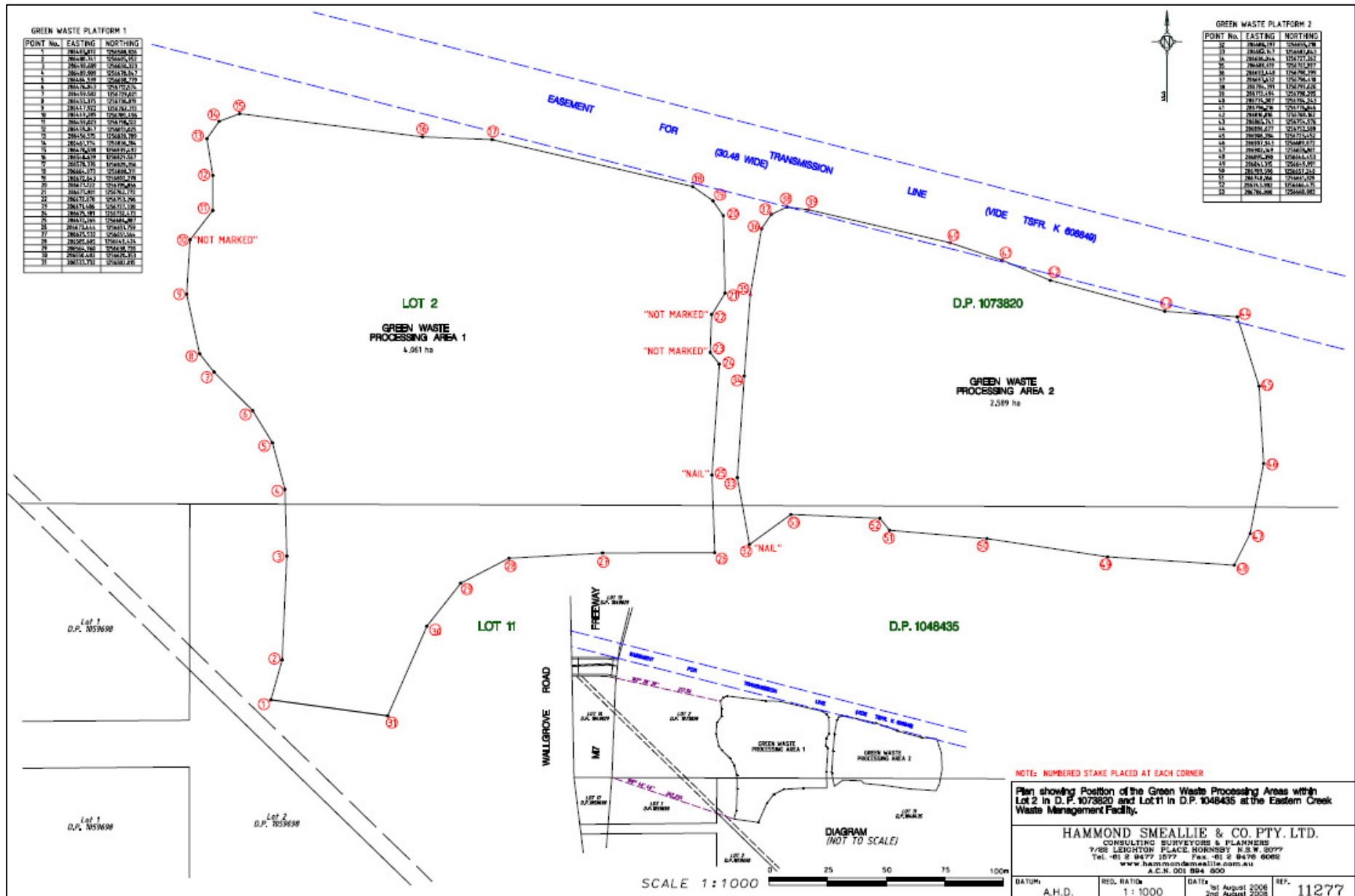


Figure 3: Site Survey of Greenwaste platforms)

### 3.0 CONSENT HISTORY

The following consent and modifications are of relevance to this application:

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- Modification to modify the hours of operation of the green waste processing facility (MOD-53-6-2007i; 6 July 2007)

The **original consent (SEPP29/19, dated 2 June 1996)**, approved the development of a greenwaste processing facility, including:

- Construction of two platforms with sufficient area to accommodate receipt, shredding, composting, stockpiling and dispatching of greenwaste.
- Approval to handle up to 50,000 tonnes of greenwaste per year.
- Operations to initially occur on the western platform (with a site area of 3.5 hectares), with the eastern platform (site area of 2.2 hectares) earmarked for future expansion (refer Figure 4).

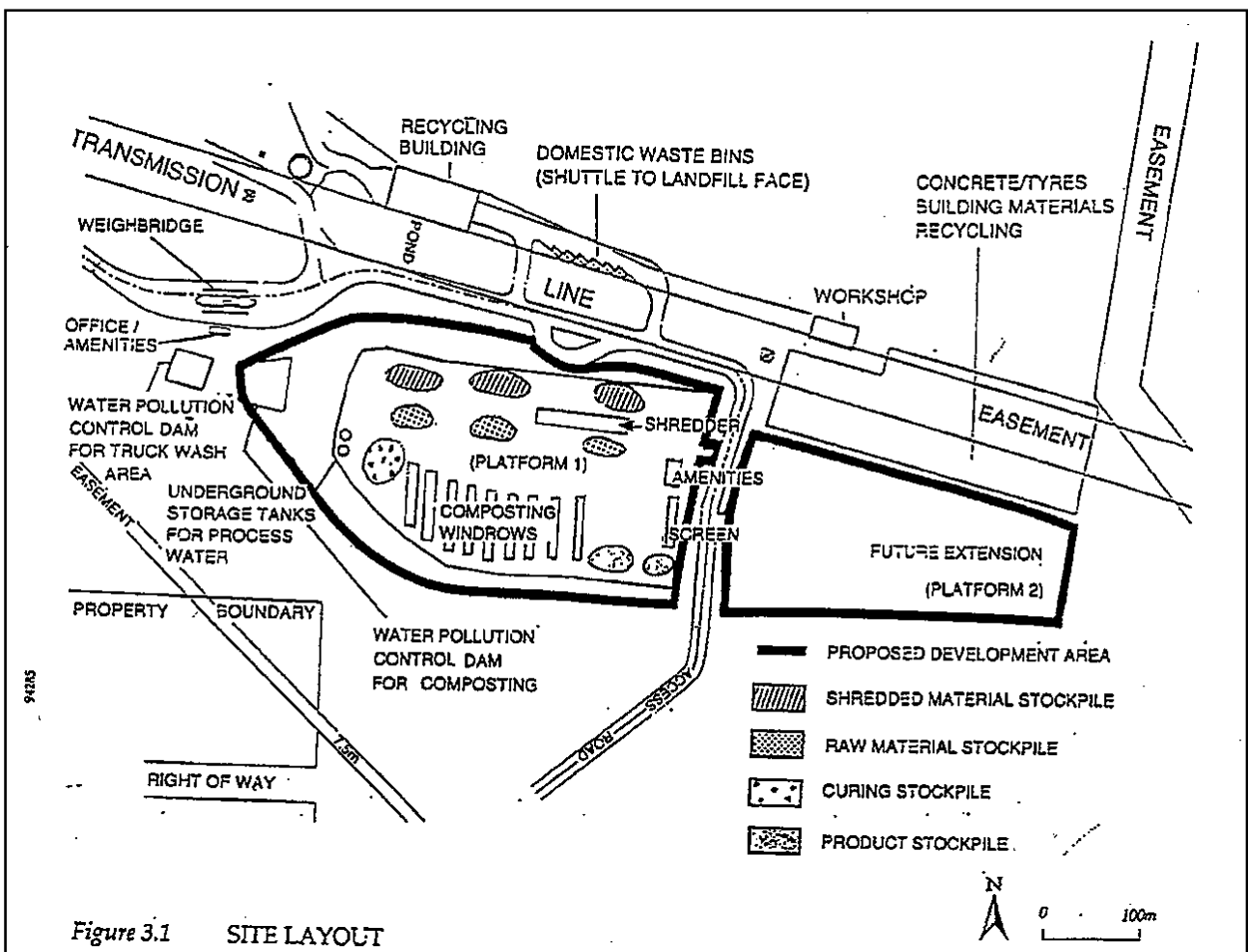


Figure 3.1 SITE LAYOUT

Figure 4: Site Layout as per consent no. S29/19 (2 June 1996)

Subsequently the site layout was altered via **MOD-94-9-2003i** (dated 17 November 2004). This modification approved the expansion of the greenwaste processing facility, including:

- An increase in accepted tonnages to 80,000 tonnes per annum;
- Major upgrade works which altered the site layout of the facility.
- A new portable building on the eastern platform (to replace the original administration building that was destroyed by fire in 2002).
- A vehicle parking and equipment maintenance area (on the western platform near the southern boundary of the site); and
- Changes to the stockpile configurations within the originally consented 5.7ha footprint (as illustrated below in Figures 5 and 6).

A copy of the site layout from the Statement of Environmental Effects, prepared by Mitchell McCotter for this modification is contained in Figures 5 and 6.

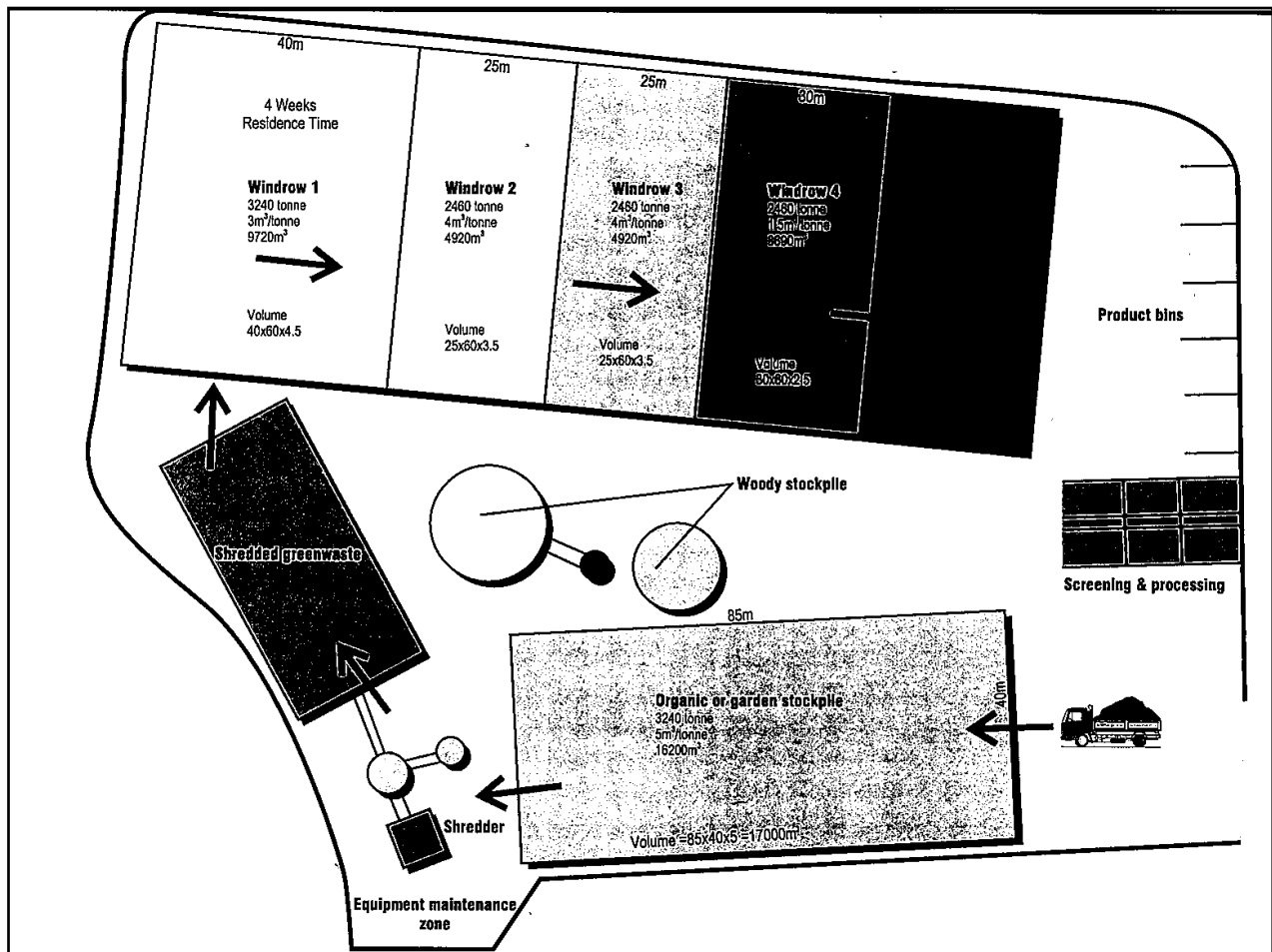


Figure 5: Western Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

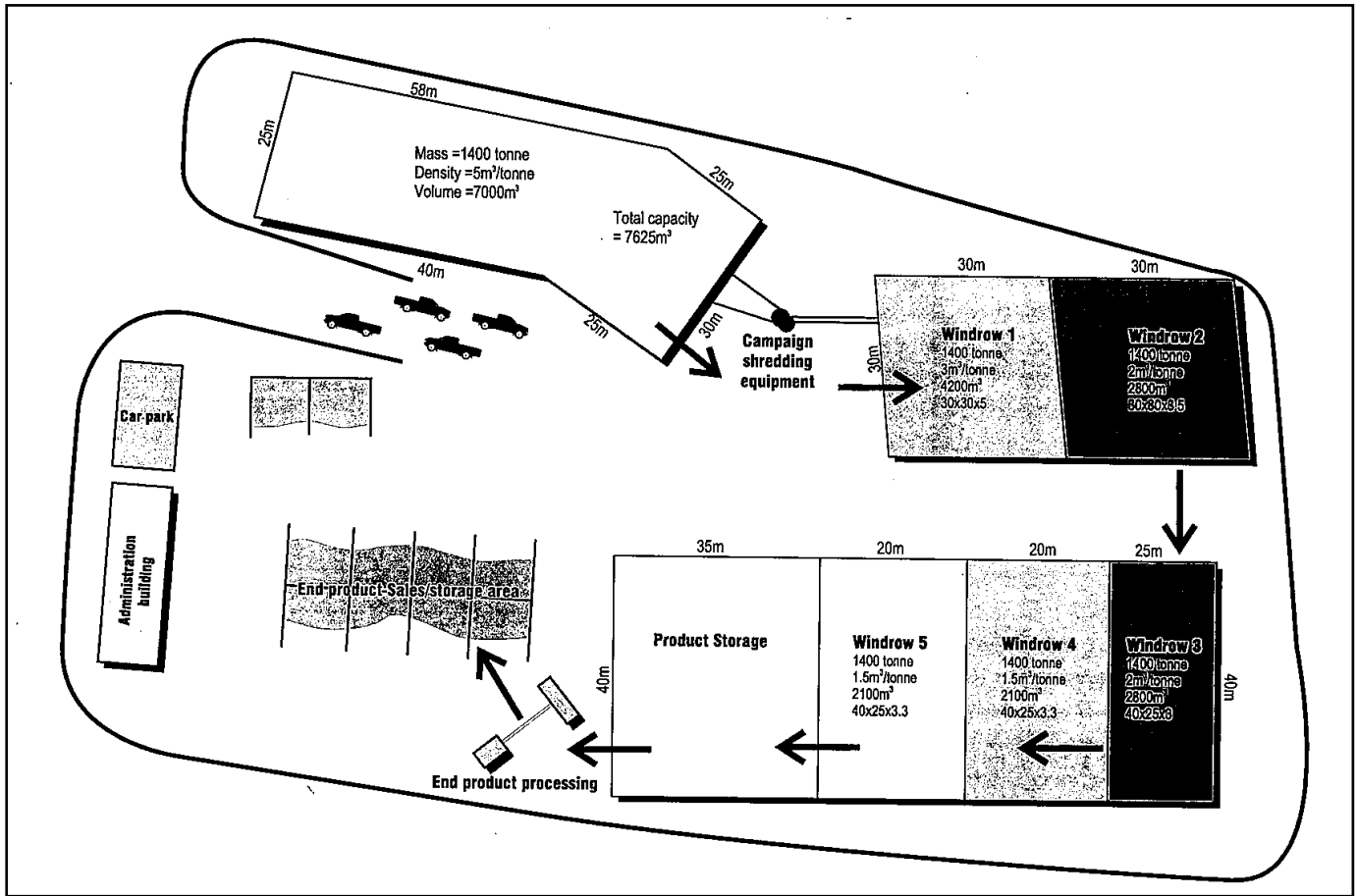


Figure 6: Eastern Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

#### 4.0 PROPOSED MODIFICATION

As approved the site occupies 5.7 hectares of closed former landfill area and consists of two platforms - the western platform (3.5 hectares) and the eastern platform (2.2 hectares), all within Lot 2 DP1073820.

The proposal seeks to modify Condition 4 of the original consent to allow for:

- the continued operation of the facility over a larger area beyond the 5.7 hectares consented by this condition (approval is sought for an extension of the area of the facility to the south onto Lot 11 DP 1048435, involving an addition of 0.95 hectares and resulting in a new total area of 6.65 hectares);
- an existing steel workshop building of dimensions 30m x 12m and 6m high on an extension to the western platform;
- sundry additional structures (an amenities building of dimensions 8.5m x 3m and 2.4m high, a refuelling bay and 3 4.4m diameter x 3m high water tanks); and
- Some minor encroachments of the eastern and western stockpile areas

The extended area will primarily encompass the unfilled land that previously formed a buffer between the approved greenwaste platform area and the Area 4 landfill. The new boundaries follow the natural landform, and are consistent with the contours that define the edge of the former Area 4 landfill

The proposal generally maintains the same layout and operations as previously approved in Modification No. MOD-94-9-2003i and as shown in figures 5 and 6. The

operations will be simply occurring on a slightly larger footprint than was originally approved.

The proposal will not result in any increase to production or input tonnages and no changes to current operations or management of the facility are proposed. The modified footprint will simply allow for more efficient operations to be carried out on site.

Figure 7 illustrates the existing approved area and the extension that is requested to be consented in this application.

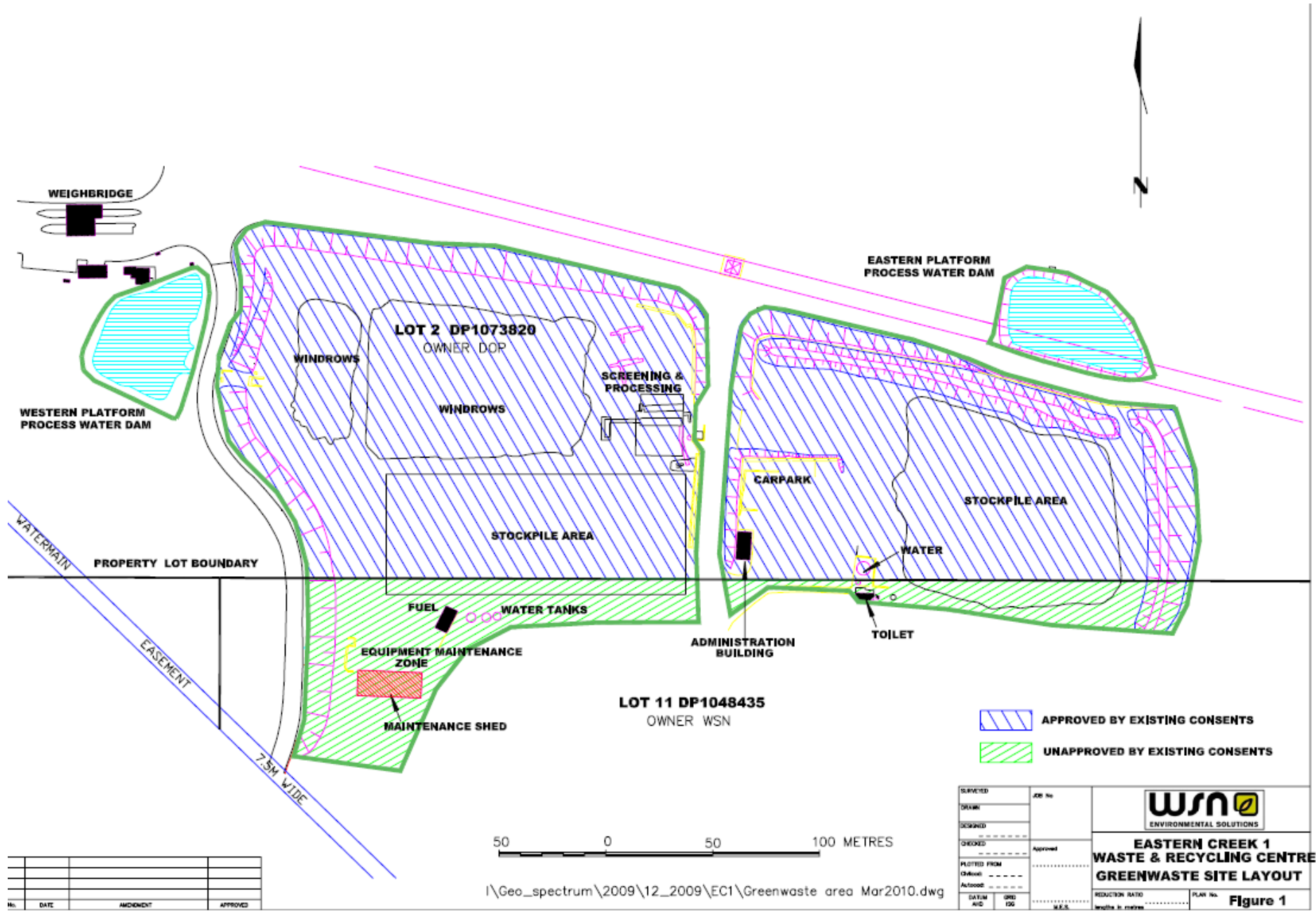


Figure 7: Existing approved area and proposed extension

## 5.0 JUSTIFICATION FOR THE PROPOSAL

In comparison with the existing consent regime, current operations at the Green Waste Processing facility are not materially changed by the modifications proposed in this application, notwithstanding that they occur over a marginally larger footprint than consented.

The marginal extension of the operational area of the facility has occurred on previously unused land that acted as a buffer to the landfill activities on the former Area 4 landfill (see Figure 1). When the Area 4 landfill was closed in 2002, the buffer became redundant and the use of the land for operational purposes became viable for the purposes of improving the efficiency of operations of the greenwaste facility. The land is unfilled, vacant and arguably of no value for other purposes within the current range of activities occurring on the greater Eastern Creek WRC site. For this reason, it is considered that extension of the greenwaste facility operations is an appropriate and acceptable use of the land.

In essence, the extended area supports activities that are adjunct to the operations of the greenwaste facility. These include:

- An equipment maintenance zone on the extension to the western platform, including the maintenance shed, vehicle manoeuvring area, refuelling facility and water tanks. This area is used exclusively for storage and maintenance of equipment used by the greenwaste facility (refer to photos 1 and 2).
- Minor portions of the western and eastern stockpiles; and
- The amenities block, also used exclusively by the greenwaste facility.

The extended configuration of the site is generally consistent with the currently approved site layout, (refer to figures 5, 6 and 7), arranged over a marginally extended site area the limits of which are essentially dictated by the finished contours of the Area 4 landfill, which forms a natural boundary to the new area.



*Photo 1: Maintenance Shed and Equipment Maintenance zone (Source: WSN)*



*Photo 2: Refuelling facility and water tanks (Source: WSN)*



Critically, the extension supports only facilities that were approved in the modified consent, located on stable, unfilled land that is suitable for construction and for heavy vehicular traffic. Moreover, the facility in its extended form receives no additional tonnage of processing materials over and above the current consent as modified.

Overall there will be no additional impact from the extension of the site area as the facility will generally maintain its current operational and management procedures.

When the above outcomes are taken into account in combination with the minimal environmental impacts identified in this Statement, it is considered that the proposed modification is justified.

## 6.0 PLANNING COMPLIANCE

This application has been prepared pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*. Section 96(2) permits the Consent Authority to modify a Consent after the consideration of the following:

1. Whether the modification will result in 'substantially the same development' as that originally approved; and
2. whether the development has acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

An assessment of the proposal under each of these points follows:

### 6.1 *Substantially the same development*

It is considered that the modification is substantially the same development as currently consented for the following reasons:

- the proposal is for the continued operation of the facility in the same manner as originally approved and the proposed increase in the site area and addition of the workshop shed will not alter the production capacity of the existing facility.
- the processes and management of the operations at the facility will remain the same as outlined in the original application for development consent as modified (consent No. s29/19 dated 2 June 1996 as modified on 17 November 2004 and 6 July 2007).
- The proposed modification is minor in nature and is not considered likely to result in any unacceptable environmental impacts.

#### 6.1.1 Extension of the development into another lot

The original consent applied to Lot Y in DP 376524, which became Lot 11 in DP 1049029 and subsequently Lot 2 in DP 107820, as it is currently known. An issue arises as to whether the consent applying to this lot can be modified to extend onto the allotment to the south (Lot 11 DP 1048435).

The following table provides a summary of the consents applying to the greenwaste facility and the relevant land descriptions.

Consent No.	Date	Consent for:	Lots in land description
S29/19	2 June 1996	Development of greenwaste facility	Lot Y DP376524
S29/19-mod	12 October 1997	Trial aerated static pile facility	n/a
Mod-94-9-2003i	17 November 2004	Expand capacity of facility. Including increase in tonnages, upgrade works, replacement of administration buildings, vehicle parking and changes to stockpile configuration	Lot 11 DP1049029 (formerly Lot Y DP376524) and Lot 11 DP1048435
Mod-53-3-2007i	6 July 2007	Modification to hours of operation	Lot 2 DP1073820 (formerly Lot11 DP1049029)

As noted in the table above the lot numbers as listed in the land description for the original consent and subsequent modifications vary. The lot where the increase in site area is proposed – Lot 11 DP1048435 – is listed in the modification consent for the expansion of the facilities capacity. In effect, therefore, the current consent as modified applies to both land parcels.

Notwithstanding this, the validity of the proposed extension being considered as a modification under section 96(2) is supported in a recent court appeal against the refusal of an application under section 96(2) to modify a development consent to expand the area of land used for the development approved by the consent [*Scrap Realty Pty Limited v Botany City Council* [2008] NSW LEC333 (19 Dec 2008)].

In this matter, the Court held that the consent authority has the power to modify a consent so that it applies to land additional to that to which the original consent applied provided that the consent authority is satisfied the modification will result in a development which is substantially the same as that which was originally consented.

The Commissioner commented that:

*As far as the condition precedent is concerned, the alteration is of “the development” – it expands the area on which development is carried out. There obviously will be questions of fact and degree in ascertaining whether the development before and after modification can be said to be substantially the same. Nevertheless, an expansion of the area on which development is carried out by adding land not the subject of the original consent is not inherently outside the concept of modification of the development under s.96. (Scrap Realty Pty Ltd v Botany City Council [2008] 19 LEC333)*

Given the conclusion of this assessment that the proposal will result in substantially the same development as currently approved, the extension of the facility onto the adjoining allotment is considered consistent with the legal precedent set by the Court and should not preclude approval of the modification.

## **6.2 Matters of consideration in Section 79C of the Act**

An assessment of the proposal against the relevant matters for consideration is contained below:

### **(a) the provisions of:**

#### **(i) any environmental planning instrument,**

- State Environmental Planning Policy (Western Sydney Parklands) 2009

This State Environmental Planning Policy (SEPP) applies to all lands within the Western Sydney Parklands, including the area of the Eastern Creek WRC. The aim of the Policy is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Sydney Parklands into a multi-use urban parkland for the region of Western Sydney.

Clause 9 of the Policy provides that land within the Parklands is unzoned. However clause 6(2) states that Part 3 of the *State Environmental Planning Policy (Infrastructure) 2007* applies to the Western Parklands as if it was in a prescribed zone under that policy.

Clause 11 of SEPP (Western Sydney Parklands) provides that the following development may be carried out without development consent but only if it is carried out by or on behalf of a public authority:

*“cafes; community facilities; entertainment facilities; environmental facilities; environmental protection works; function centres; information and education facilities; kiosks; landscaping; maintenance depots; public administration buildings; recreation areas; recreation facilities (outdoor); signage (for directional, informative, or interpretative purposes); ticketing facilities.”*

Other developments, excluding development for the purposes of residential accommodation may be carried out in the parklands only with development consent.

Clause 12 of the Policy sets out the matters to be generally considered by a consent authority in determining a development application for development on land in the Western Parklands.

- (a) the aim of this Policy, as set out in clause 2,*
- (b) the impact on drinking water catchments and associated infrastructure,*
- (c) the impact on utility services and easements,*
- (d) the impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities,*
- (e) the impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland,*
- (f) the impact on the Western Parkland’s linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use,*
- (g) the impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of western Sydney,*
- (h) the impact on public access to the Western Parklands,*
- (i) consistency with:*
  - (i) any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or*
  - (ii) any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part,*
- (j) the impact on surrounding residential amenity,*
- (k) the impact on significant views,*
- (l) the effect on drainage patterns, ground water, flood patterns and wetland viability,*
- (m) the impact on heritage items,*
- (n) the impact on traffic and parking.*

The greenwaste facility is an approved use on the site and the proposed modification will not alter the nature of operations and its management as previously approved. The inclusion of additional area to the facility and addition of the mechanical workshop shed will not impact on the development, operation and management of the Western Parklands and access to it.

There are no additional impacts to residential amenity, significant views, heritage items and traffic and parking.

Overall the proposal is not considered to hinder the aims of the Policy as it involves the physical extension of an existing approved facility within an area used for waste management purposes.

- State Environmental Planning Policy (Infrastructure) 2007

This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW.

Division 23 of the SEPP applies to waste or resource management facilities. The subject facility falls under the definition of resource recovery facility as follows:

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

In addition a ‘waste or resource management facility’ means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

Clause 121(1) provides that development for the purpose of waste or resource management facilities, may be carried out by any person with consent on land in a prescribed zone. As noted above Clause (6) of the SEPP (Western Sydney Parklands) 2009, identifies the site as a prescribed zone.

However, as previously noted, the greenwaste facility is a previously approved use on the site and the proposed modification is not considered to significantly alter the approved use of the site. As such SEPP (Infrastructure) 2007 does not affect the proposal.

- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been modified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been differed indefinitely or has not been approved); and***

No such instrument applies to this proposal.

- (iii) any development control plan; and***

No development control plans apply to this proposal.

- (iv) any planning agreement that has been entered into under section 93F, to any draft planning agreement that a developer has offered to enter into under section 93F, and***

No planning agreement entered into under section 93F applies to the existing consent or the proposed modification.

- (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

The facility is classified as designated development under Clause 32 of Schedule 3 of the regulations. However Clause 35 of Schedule 3 states:

*Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent*

*authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.*

In this regard, this Statement indicates that the proposed modification will not significantly increase the environmental impacts of the total development and is therefore not designated development under the regulations.

Additionally the regulations make certain requirements with respect to applications for Modification of Consents under S.96(2) pertaining, in particular, to content of the application (s.115) and public participation in the assessment process (s.118). The application and its assessment will be consistent with these requirements.

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

The modification application is to extend the existing consent to allow a minor extension of the approved footprint and to incorporate various adjunct facilities including a maintenance zone (workshop shed, fuel supply area, water tanks and manoeuvring area and amenities block). The additional area extends onto previously unoccupied land to the south of the existing facility. The modification does not change the currently approved tonnages being processed by the facility.

The Statement of Environmental Effects (**SEE**), prepared by ERM (2003) for modification to expand the capacity of the existing green waste processing facility (MOD-94-9-2003i; 17 November 2004) assessed the impact of the proposal under the following headings:

- Land use
- Groundwater
- Drainage and Water Quality
- Air Quality
- Noise
- Flora and Fauna
- Visual Impacts
- Archaeology and heritage
- Traffic and Access
- Waste
- Hazardous Material
- Utilities and Services
- Public and Worker Safety
- Fire Safety
- Cumulative Impact

In order to illustrate the impacts of this Modification in comparison with the 2004 Consent, each of these matters is briefly discussed below.

- Land use

The proposed modification to extend the greenwaste platform as discussed in this statement is contained wholly within the Eastern Creek WRC. Operations of the facility are integrated with other waste management activities on the site and there will be no significant impact on surrounding land uses.

- Groundwater

The greenwaste platform (including the extension area subject of this modification) is covered with a low permeable shale/clay hardstand, effectively preventing any seepage of surface water into any underlying groundwater. Existing bores are used to monitor any changes in groundwater conditions and monitoring is undertaken in accordance with relevant Environmental Planning Licence (**EPL**) conditions.

- Drainage and Water Quality

The western platform continues to drain to the ANL dam, situated to the west of the platform whilst the eastern platform drains to the dam situated to the north-east of the eastern platform. There are no proposed changes to the drainage arrangements on site. The SEE concluded, following hydraulic analysis and modelling, that both dams could be expected to overflow less than once in 10years on average. Additionally water quality is monitored in accordance with the requirements of the EPL for the site.

- Air Quality

Air quality impacts were discussed in the SEE with respect to dust and odour. Dust minimising measures were noted in the SEE and ongoing monitoring of dust is carried out on site. Dust emissions would not change as a result of the proposal and impacts would remain acceptable.

An odour assessment was undertaken by PAEHolmes (formerly Holmes Air Sciences) to assess the potential impact of extending the site area of the existing greenwaste operation. A statement from PAEHolmes is contained in Appendix A.

The statement notes:

*“We understand that the modification would not result in any increase in input tonnage or production rate; therefore any increase in odour impacts is very unlikely. However as the source of odour is stockpiled greenwaste/composted material, it is possible that there could be an increase in the emitting surface area given that there is potential to spread the material out further. This is unlikely, given that the site operations would not change and the purpose of the expansion is to allow more efficient operation of the site which could be hindered by a significant increase in stockpile area.”*

As such, given that there will be no change to current operations on site, the proposed extension will not result in an increase in odour from the facility.

- Noise

The SEE demonstrated compliance with noise level restrictions applied by the EPL for the site. As noted above, there are no proposed changes to the current operation of the facility and as such there will be no additional noise impacts. Ongoing noise monitoring is carried out on site to ensure continued compliance with noise limits.

- Flora and Fauna

The proposed extension will not have any affect on flora and fauna as the extended area utilises an existing cleared area.

- Visual Impacts

There will be no additional visual impacts on the surrounding area as the proposed extension will be located within the existing waste management facility and cannot be viewed from outside the Eastern Creek WRC.

Additionally there is existing planting along the eastern, western and southern boundaries that provides additional screening and improves the overall appearance of the site.

- Archaeology and Heritage

The SEE stated that there are no heritage listed items or known items of archaeological significance on or near the site.

- Traffic and Access

As the modification does not change the existing operations and management of the facility, there will be no increase in traffic accessing the site. Also, there are no changes to existing access arrangements onsite.

- Waste

Given that there are no proposed changes to the operations on site, the handling of any wastes will remain unchanged. As noted in the SEE, the only wastes onsite relate to contaminants in the greenwaste. These wastes are removed from the green waste prior to processing and are recycled or disposed of to landfill as appropriate.

- Hazardous Material

The handling of any potential hazardous wastes remains unchanged on site. Any Hazardous wastes brought to the site are separated and disposed of to a premises licensed to accept hazardous materials.

- Utilities and Services

The amenities building is serviced by a bio-septic system. The site is connected to reticulated water and electricity is supplied via existing services to the WRC.

- Public and Worker Safety

The facility has a Site Safety Management Plan and System in place; Environmental risk assessment, including OH & S assessment conducted in accordance with the site's EMP. Additionally, site workers are inducted to the site and trained accordingly.

- Fire Safety

There will be no change to current fire management practises on site. Fire management practices are outlined in the facility's Fire Management Plant. Fire fighting equipment is accessible on site and site staff are trained to manage any fire outbreaks.

- Cumulative Impact

Operation of the current facilities creates positive cumulative impacts at social, economic and environmental levels. The proposed amendments will have no negative impacts and will contribute to these existing positive impacts.



**(c) *The suitability of the site for the development;***

The greenwaste facility has been operating on the site since it was approved in 1996. The additional area that is the subject of this application extends onto previously unused land to the south of the existing facility. The proposed modification is to alter the footprint of the facility and include a mechanical workshop shed. It will not change the nature or intensity of the operations of the facility. The workshop shed, which is necessary for the operations of the facility, is built on the extended site as it provides a stable building platform on unfilled land in preference to the currently approved area which incorporates only filled land which may be unsuitable for building construction. On this basis it is considered that the site will remain suitable for the development as modified.

**(d) *Any submissions made in accordance with this Act or the regulations;***

Submissions made to the notification of the proposed modification will be considered by the applicant and the proposal will be amended if required prior to final consideration by the Minister.

**(e) *The public interest***

The facility receives and processes greenwastes from local council areas, from other WSN transfer stations and from commercial contractors into quality compost products. As noted above there will be no change to the management and operation of the facility. The facility will continue to service the green waste recycling needs of the area.

The proposed modification will allow for more efficient operations to be carried out on site and allow the facility to better service the needs of the public in this respect with no impacts to the amenity of the locality.

The overall outcome of this assessment is that the proposed modification is considered to have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act

## **7.0 CONCLUSIONS**

The proposed extension of the greenwaste facility is required to allow for more efficient operations to occur on site. In addition the extension includes a workshop building that could not be located within the approved footprint of the site given the hazards of such construction on filled land.

The proposal is to modify the Ministers Consent 29/19 dated 2 June 1996 (as modified on 17 November 2004 and 6 July 2007) by addition of the workshop building and by modifying Condition 4 to allow extension onto the adjoining allotment over a total additional site area of 0.95 hectares.

This assessment has indicated that the proposed modification is consistent with the requirements of S.96(2) of the *Environmental Planning and Assessment Act 1979* in that:

- The modification will result in 'substantially the same development' as that originally approved; and
- The development will have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

Given the minor nature of the proposal and that there is not considered to be any additional impacts or changes to current operations on site, the proposed modification is considered substantiated.

**APPENDIX A: ODOUR IMPACT STATEMENT**



## **EASTERN CREEK WASTE AND RECYCLING CENTRE**

**APPLICATION UNDER S.96(2) OF THE *ENVIRONMENTAL  
PLANNING AND ASSESSMENT ACT 1979* TO MODIFY THE  
MINISTERS CONSENT NO. S29/19 (2 JULY 1996):**

**WORKSHOP BUILDING AND EXTENSION OF GREEN WASTE  
PLATFORM AREA**

***STATEMENT OF ENVIRONMENTAL EFFECTS***

**26 March 2010**

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## 1.0 INTRODUCTION

WSN Environmental Solutions (**WSN**) operates the Eastern Creek Waste & Recycling Centre (**WRC**) located off Wallgrove Road, Eastern Creek on land partially owned by Department of Planning (**the Department**) and partially owned by WSN. As consented, the Eastern Creek Green Waste Facility (**the facility**) operates within the greater Eastern Creek site on Lot 2, DP 1073820. This lot incorporates land leased from the Department and sub-leased by WSN to Australian Native Landscapes (**ANL**) the operator of the facility. In its current configuration, the facility also occurs partially on Lot 11, DP 1048435, land in the ownership of WSN.

The Facility operates under the Minister's development consent no. SEPP29/19 dated 2 July 1996 as modified on 12 October 1997, 17 November 2004 and 6 July 2007.

Condition 4 of this consent reads:

*"The facility is to be restricted to the designated 3.5 hectare site in the first stage and the final stage of the development involving a second additional 2.2 hectare site, as per the plans contained in the Eastern Creek Waste Processing Facility EIS, July 1995. Any further expansion of the development site will require separate development consent."*

The footprint of the facility has extended beyond its originally approved 5.7 ha limit and now covers a total area of 6.65 hectares. The extended area supports a workshop shed, a refuelling bay, water tanks and minor encroachments of existing stockpiles. This application seeks to modify Consent S29/19 under S.96(2) of the *Environmental Planning and Assessment Act, 1979 (the Act)* to provide for extension of the greenwaste facility footprint and to allow the operations that are not subject to the existing consents.

## 2.0 SITE PARTICULARS (Figures 1 & 2)

The Eastern Creek WRC is located on part of Lot 1 and 2 DP1073820, Lot 11 DP1048435, Lot 2 DP1059698 and Lot 12 DP1049029 off Wallgrove Road, Eastern Creek. Lot 11 DP1048435 and Lot 2 DP1059698 in the south is owned by WSN, while the remainder of the site is leased from the NSW Department of Planning (refer Figure 1).

The Eastern Creek WRC is located off Wallgrove Road, Eastern Creek, within the Blacktown Local Government Area (LGA).

Completed landfill Areas 1 to 4, are located on the western side of Eastern Creek WRC within the area known as Eastern Creek 1. Eastern Creek 2 landfill is divided into areas referred to as the 'Southern Cells' and the 'Northern Cells' (cells 4, 6 and 7). Landfilling operations are now complete at the Southern Cells, with rehabilitation works currently planned. Landfill operations are currently carried out at the 'Northern Cells'.

In addition WSN also operates a leachate treatment plant, subleases to Energy Developments Ltd (**EDL**) who operate a landfill to gas power plant situated at the Wallgrove Road entrance to the site and also operates their own landfill gas power plant in conjunction with Landfill Management Services Pty (**LMS**). Figure 2 shows an aerial view of the facilities at the site and surrounds.

The Green Waste Processing Facility is located within the area known as Eastern Creek 1. Under the current consent it operates on Lot 2, DP 1073820. A survey of the Green Waste Processing Facility is contained in Figure 3.

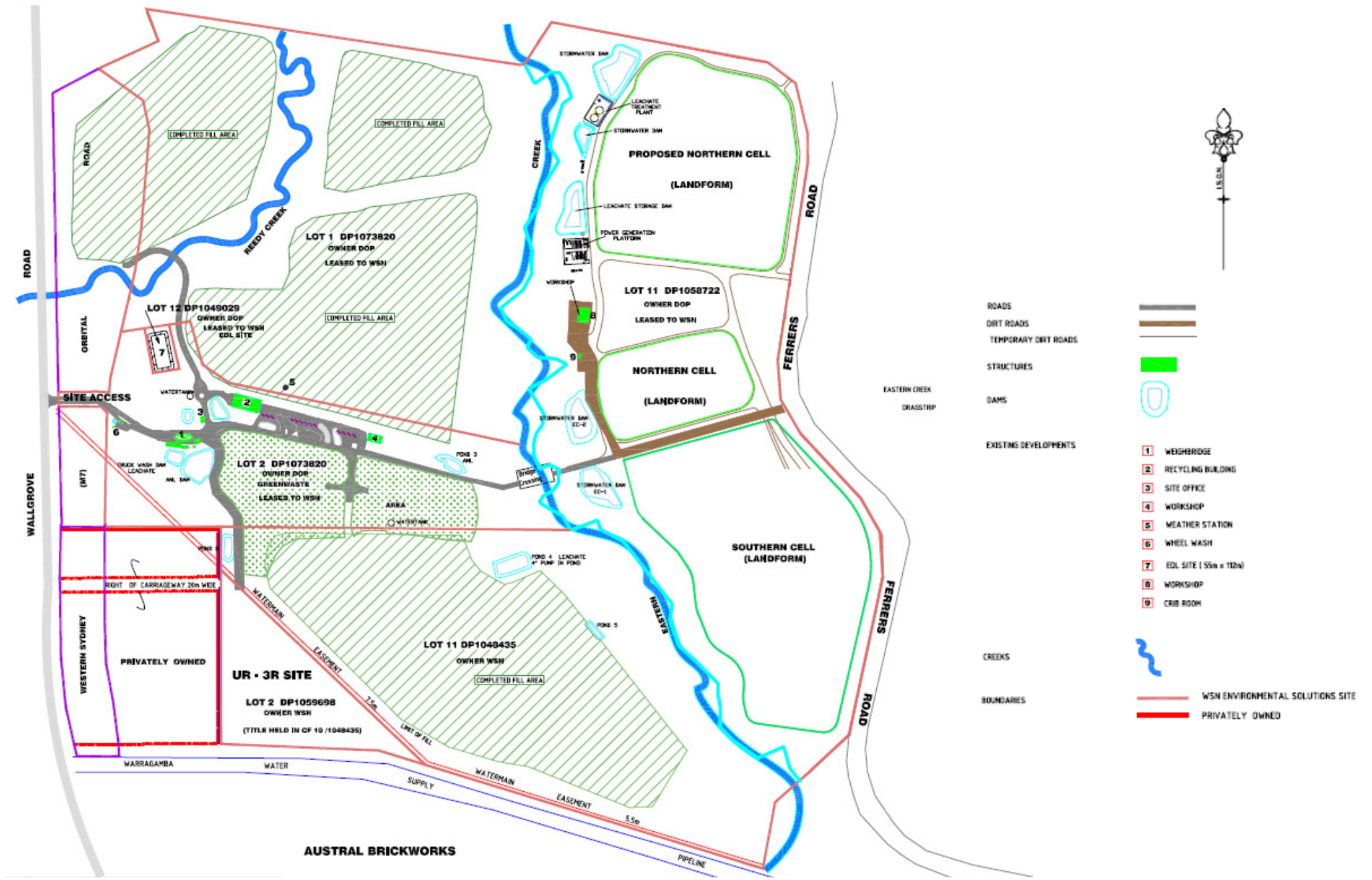


Figure 1: Site Plan and Cadastral information (Subject Site stippled green)  
Page 4

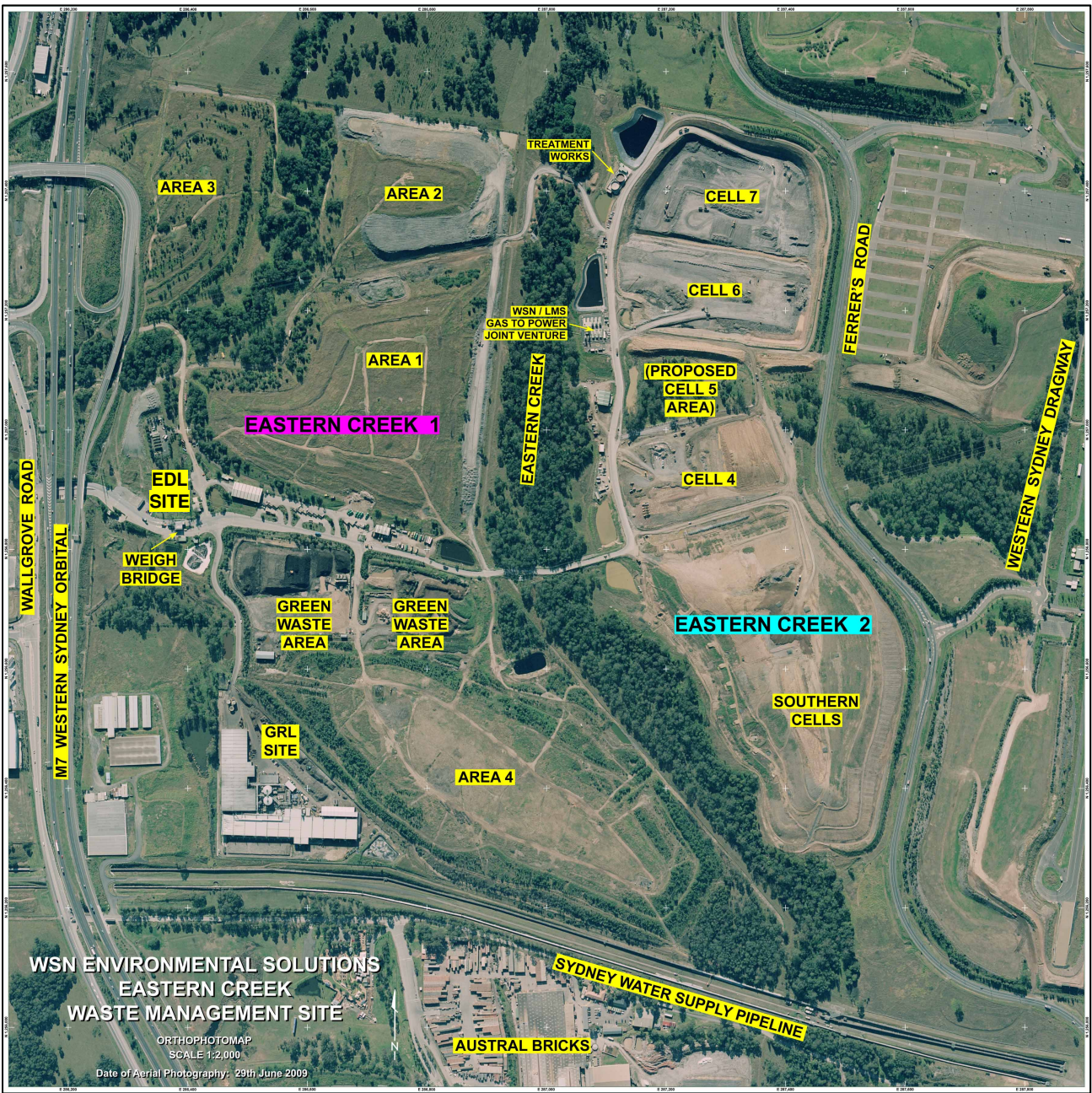


Figure 2: Eastern Creek Site Plan and Surrounds



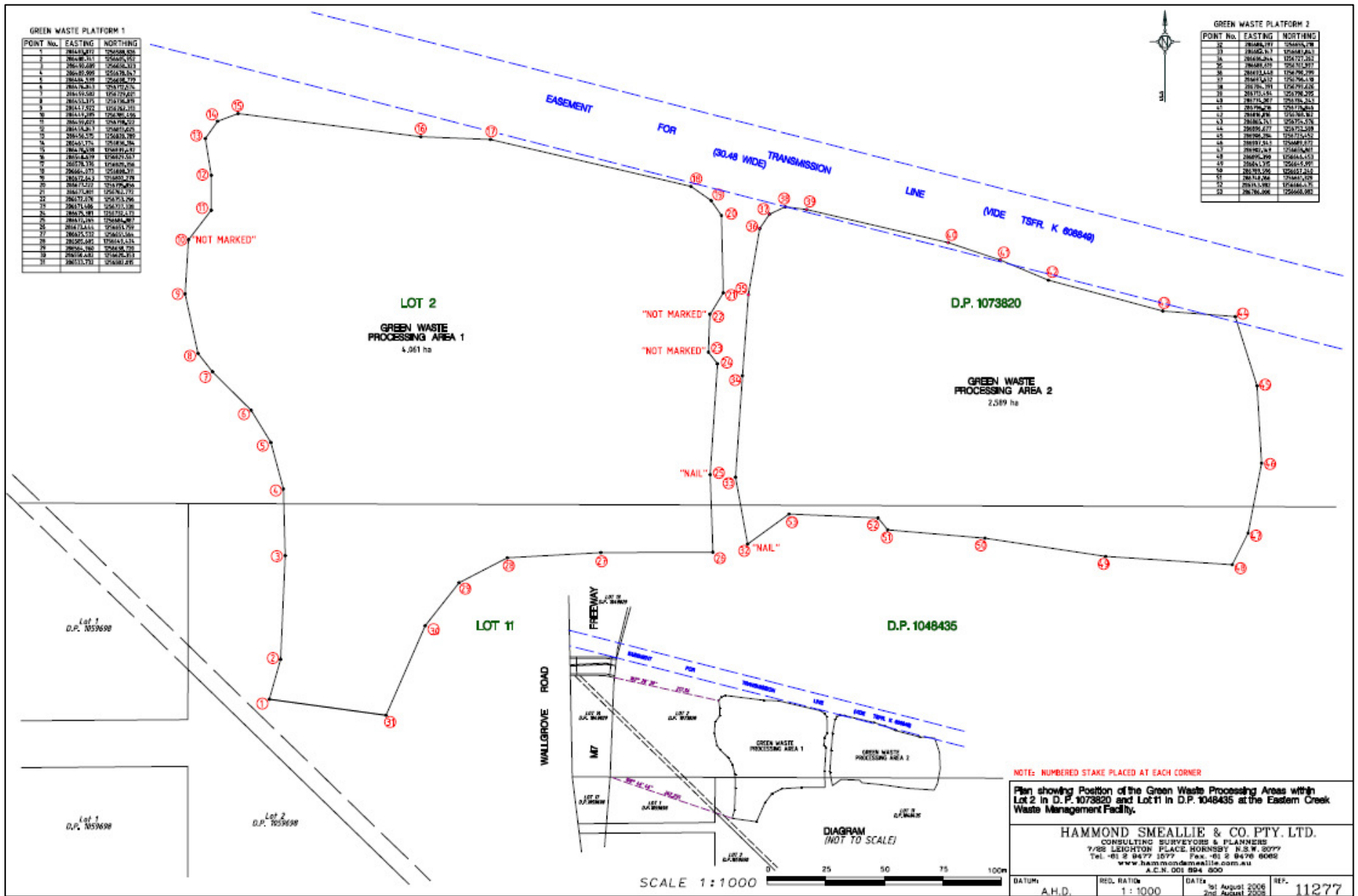


Figure 3: Site Survey of Greenwaste platforms)

### 3.0 CONSENT HISTORY

The following consent and modifications are of relevance to this application:

- Original Consent – Minister’s approval, S29/19 (2 June 1996), for development of a green waste processing facility.
- Modification to add a ‘Trial Aerated Static Pile Facility’ (S29/19-mod; 12 October 1997)
- Modification to expand the capacity of the existing green waste processing facility, including an increase in tonnages, upgrade works, replacement of administration buildings, establishment of vehicle parking and changes to stockpile configurations (MOD-94-9-2003i; 17 November 2004)
- Modification to modify the hours of operation of the green waste processing facility (MOD-53-6-2007i; 6 July 2007)

The **original consent (SEPP29/19, dated 2 June 1996)**, approved the development of a greenwaste processing facility, including:

- Construction of two platforms with sufficient area to accommodate receipt, shredding, composting, stockpiling and dispatching of greenwaste.
- Approval to handle up to 50,000 tonnes of greenwaste per year.
- Operations to initially occur on the western platform (with a site area of 3.5 hectares), with the eastern platform (site area of 2.2 hectares) earmarked for future expansion (refer Figure 4).

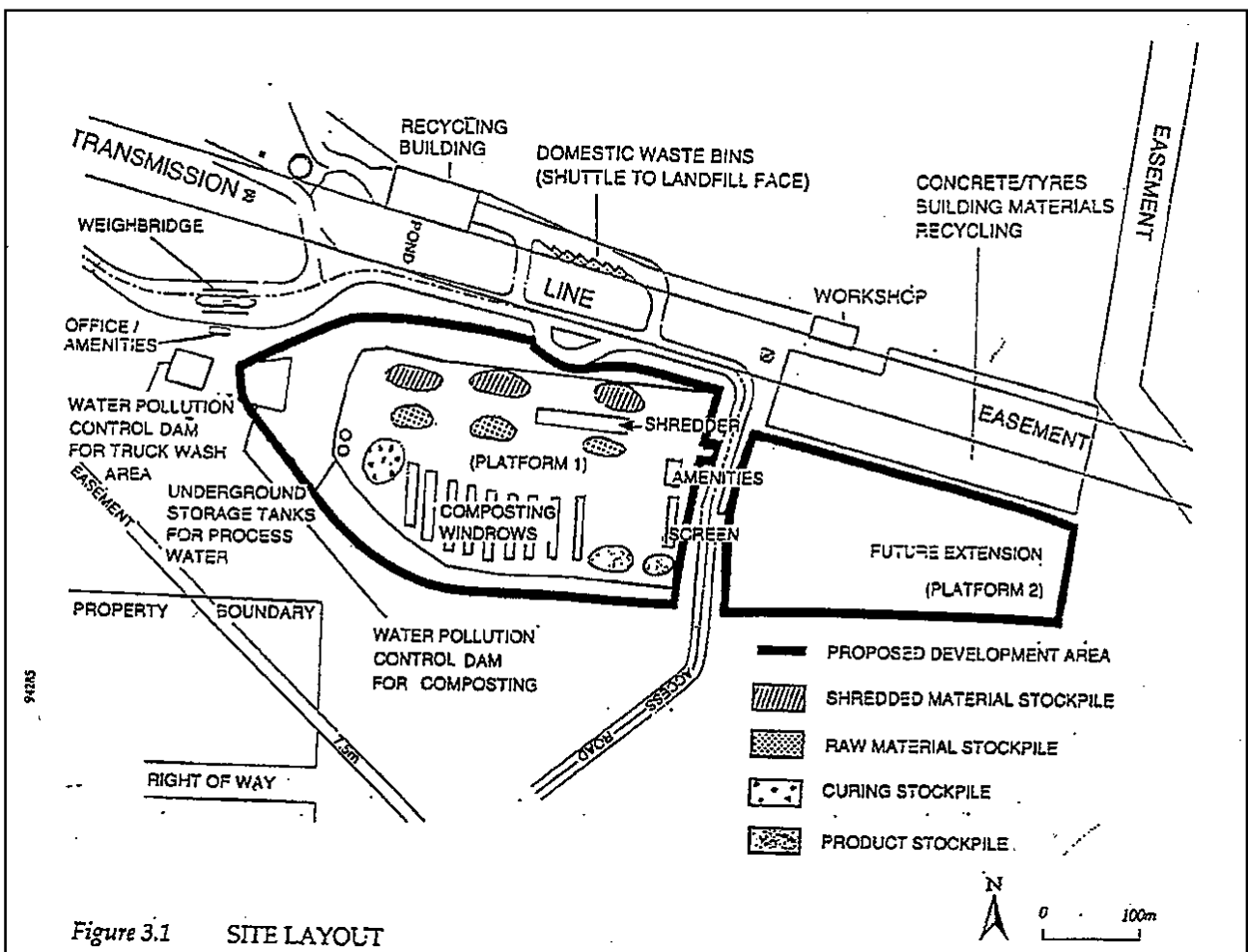


Figure 4: Site Layout as per consent no. S29/19 (2 June 1996)

Subsequently the site layout was altered via **MOD-94-9-2003i** (dated 17 November 2004). This modification approved the expansion of the greenwaste processing facility, including:

- An increase in accepted tonnages to 80,000 tonnes per annum;
- Major upgrade works which altered the site layout of the facility.
- A new portable building on the eastern platform (to replace the original administration building that was destroyed by fire in 2002).
- A vehicle parking and equipment maintenance area (on the western platform near the southern boundary of the site); and
- Changes to the stockpile configurations within the originally consented 5.7ha footprint (as illustrated below in Figures 5 and 6).

A copy of the site layout from the Statement of Environmental Effects, prepared by Mitchell McCotter for this modification is contained in Figures 5 and 6.

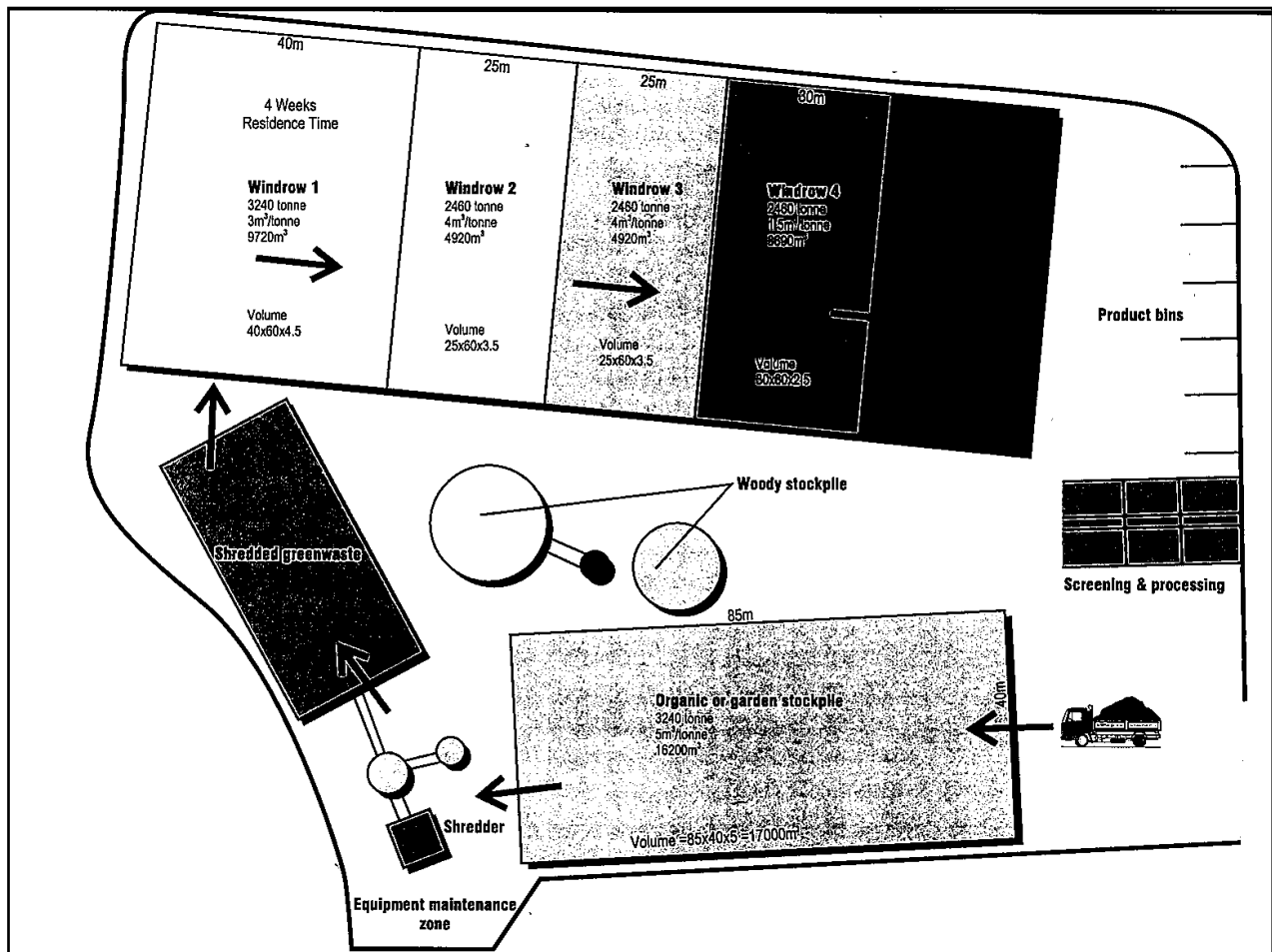


Figure 5: Western Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

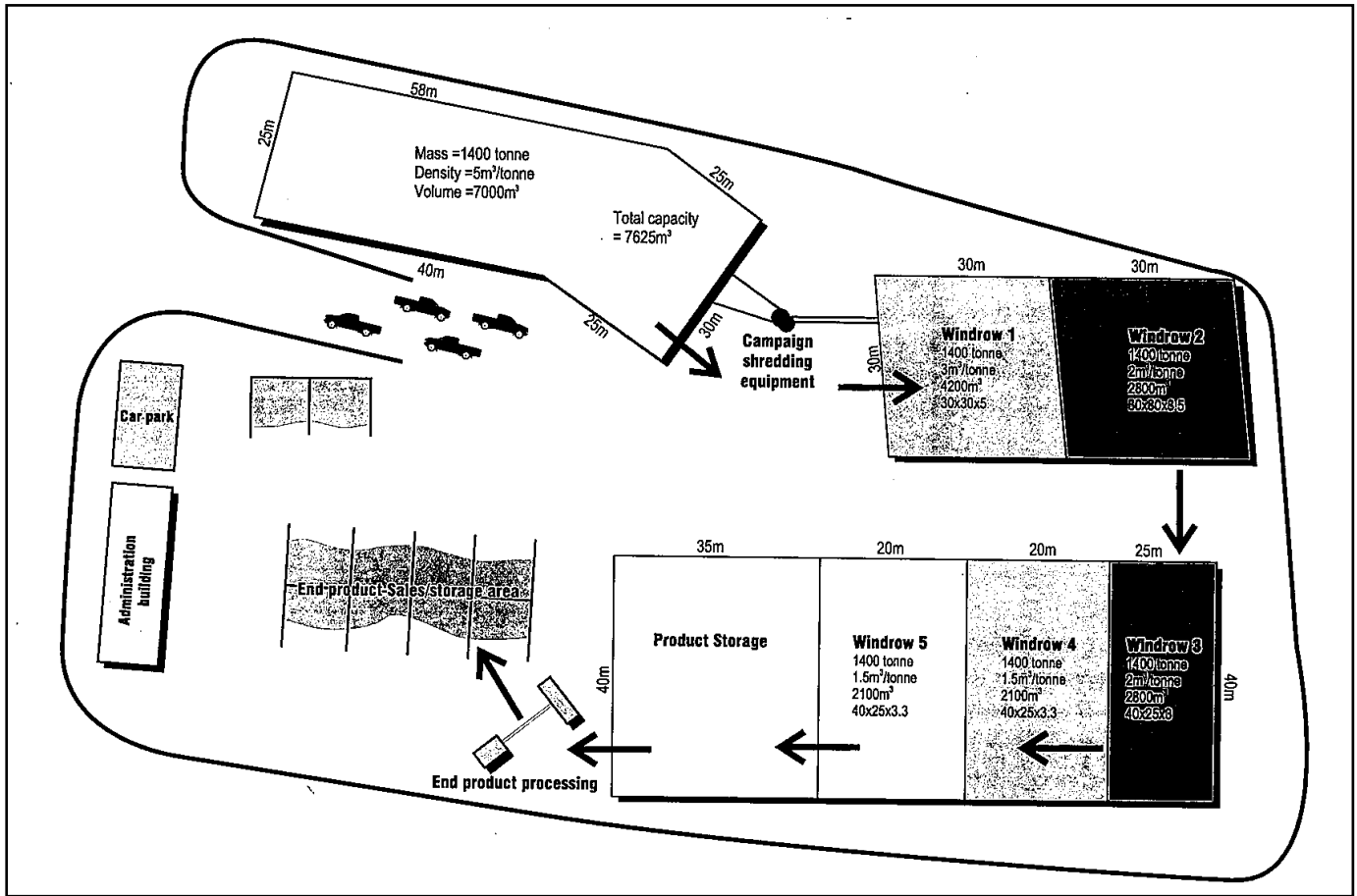


Figure 6: Eastern Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

#### 4.0 PROPOSED MODIFICATION

As approved the site occupies 5.7 hectares of closed former landfill area and consists of two platforms - the western platform (3.5 hectares) and the eastern platform (2.2 hectares), all within Lot 2 DP1073820.

The proposal seeks to modify Condition 4 of the original consent to allow for:

- the continued operation of the facility over a larger area beyond the 5.7 hectares consented by this condition (approval is sought for an extension of the area of the facility to the south onto Lot 11 DP 1048435, involving an addition of 0.95 hectares and resulting in a new total area of 6.65 hectares);
- an existing steel workshop building of dimensions 30m x 12m and 6m high on an extension to the western platform;
- sundry additional structures (an amenities building of dimensions 8.5m x 3m and 2.4m high, a refuelling bay and 3 4.4m diameter x 3m high water tanks); and
- Some minor encroachments of the eastern and western stockpile areas

The extended area will primarily encompass the unfilled land that previously formed a buffer between the approved greenwaste platform area and the Area 4 landfill. The new boundaries follow the natural landform, and are consistent with the contours that define the edge of the former Area 4 landfill

The proposal generally maintains the same layout and operations as previously approved in Modification No. MOD-94-9-2003i and as shown in figures 5 and 6. The

operations will be simply occurring on a slightly larger footprint than was originally approved.

The proposal will not result in any increase to production or input tonnages and no changes to current operations or management of the facility are proposed. The modified footprint will simply allow for more efficient operations to be carried out on site.

Figure 7 illustrates the existing approved area and the extension that is requested to be consented in this application.

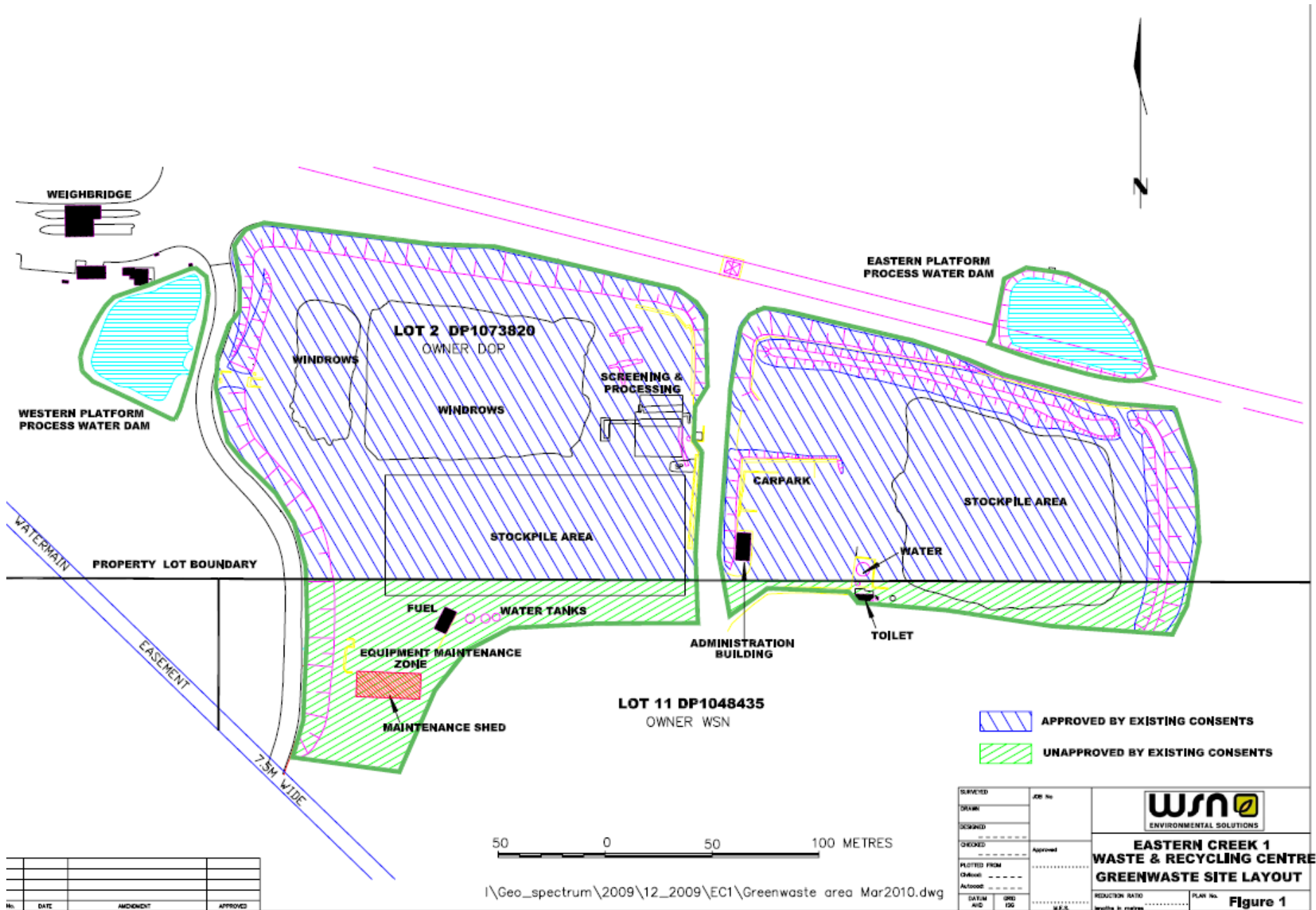


Figure 7: Existing approved area and proposed extension

## 5.0 JUSTIFICATION FOR THE PROPOSAL

In comparison with the existing consent regime, current operations at the Green Waste Processing facility are not materially changed by the modifications proposed in this application, notwithstanding that they occur over a marginally larger footprint than consented.

The marginal extension of the operational area of the facility has occurred on previously unused land that acted as a buffer to the landfill activities on the former Area 4 landfill (see Figure 1). When the Area 4 landfill was closed in 2002, the buffer became redundant and the use of the land for operational purposes became viable for the purposes of improving the efficiency of operations of the greenwaste facility. The land is unfilled, vacant and arguably of no value for other purposes within the current range of activities occurring on the greater Eastern Creek WRC site. For this reason, it is considered that extension of the greenwaste facility operations is an appropriate and acceptable use of the land.

In essence, the extended area supports activities that are adjunct to the operations of the greenwaste facility. These include:

- An equipment maintenance zone on the extension to the western platform, including the maintenance shed, vehicle manoeuvring area, refuelling facility and water tanks. This area is used exclusively for storage and maintenance of equipment used by the greenwaste facility (refer to photos 1 and 2).
- Minor portions of the western and eastern stockpiles; and
- The amenities block, also used exclusively by the greenwaste facility.

The extended configuration of the site is generally consistent with the currently approved site layout, (refer to figures 5, 6 and 7), arranged over a marginally extended site area the limits of which are essentially dictated by the finished contours of the Area 4 landfill, which forms a natural boundary to the new area.



*Photo 1: Maintenance Shed and Equipment Maintenance zone (Source: WSN)*



*Photo 2: Refuelling facility and water tanks (Source: WSN)*

Critically, the extension supports only facilities that were approved in the modified consent, located on stable, unfilled land that is suitable for construction and for heavy vehicular traffic. Moreover, the facility in its extended form receives no additional tonnage of processing materials over and above the current consent as modified.

Overall there will be no additional impact from the extension of the site area as the facility will generally maintain its current operational and management procedures.

When the above outcomes are taken into account in combination with the minimal environmental impacts identified in this Statement, it is considered that the proposed modification is justified.



## 6.0 PLANNING COMPLIANCE

This application has been prepared pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*. Section 96(2) permits the Consent Authority to modify a Consent after the consideration of the following:

1. Whether the modification will result in 'substantially the same development' as that originally approved; and
2. whether the development has acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

An assessment of the proposal under each of these points follows:

### 6.1 *Substantially the same development*

It is considered that the modification is substantially the same development as currently consented for the following reasons:

- the proposal is for the continued operation of the facility in the same manner as originally approved and the proposed increase in the site area and addition of the workshop shed will not alter the production capacity of the existing facility.
- the processes and management of the operations at the facility will remain the same as outlined in the original application for development consent as modified (consent No. s29/19 dated 2 June 1996 as modified on 17 November 2004 and 6 July 2007).
- The proposed modification is minor in nature and is not considered likely to result in any unacceptable environmental impacts.

#### 6.1.1 Extension of the development into another lot

The original consent applied to Lot Y in DP 376524, which became Lot 11 in DP 1049029 and subsequently Lot 2 in DP 107820, as it is currently known. An issue arises as to whether the consent applying to this lot can be modified to extend onto the allotment to the south (Lot 11 DP 1048435).

The following table provides a summary of the consents applying to the greenwaste facility and the relevant land descriptions.

Consent No.	Date	Consent for:	Lots in land description
S29/19	2 June 1996	Development of greenwaste facility	Lot Y DP376524
S29/19-mod	12 October 1997	Trial aerated static pile facility	n/a
Mod-94-9-2003i	17 November 2004	Expand capacity of facility. Including increase in tonnages, upgrade works, replacement of administration buildings, vehicle parking and changes to stockpile configuration	Lot 11 DP1049029 (formerly Lot Y DP376524) and Lot 11 DP1048435
Mod-53-3-2007i	6 July 2007	Modification to hours of operation	Lot 2 DP1073820 (formerly Lot11 DP1049029)

As noted in the table above the lot numbers as listed in the land description for the original consent and subsequent modifications vary. The lot where the increase in site area is proposed – Lot 11 DP1048435 – is listed in the modification consent for the expansion of the facilities capacity. In effect, therefore, the current consent as modified applies to both land parcels.

Notwithstanding this, the validity of the proposed extension being considered as a modification under section 96(2) is supported in a recent court appeal against the refusal of an application under section 96(2) to modify a development consent to expand the area of land used for the development approved by the consent [*Scrap Realty Pty Limited v Botany City Council* [2008] NSW LEC333 (19 Dec 2008)].

In this matter, the Court held that the consent authority has the power to modify a consent so that it applies to land additional to that to which the original consent applied provided that the consent authority is satisfied the modification will result in a development which is substantially the same as that which was originally consented.

The Commissioner commented that:

*As far as the condition precedent is concerned, the alteration is of “the development” – it expands the area on which development is carried out. There obviously will be questions of fact and degree in ascertaining whether the development before and after modification can be said to be substantially the same. Nevertheless, an expansion of the area on which development is carried out by adding land not the subject of the original consent is not inherently outside the concept of modification of the development under s.96. (Scrap Realty Pty Ltd v Botany City Council [2008] 19 LEC333)*

Given the conclusion of this assessment that the proposal will result in substantially the same development as currently approved, the extension of the facility onto the adjoining allotment is considered consistent with the legal precedent set by the Court and should not preclude approval of the modification.

## **6.2 Matters of consideration in Section 79C of the Act**

An assessment of the proposal against the relevant matters for consideration is contained below:

### **(a) the provisions of:**

#### **(i) any environmental planning instrument,**

- State Environmental Planning Policy (Western Sydney Parklands) 2009

This State Environmental Planning Policy (SEPP) applies to all lands within the Western Sydney Parklands, including the area of the Eastern Creek WRC. The aim of the Policy is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Sydney Parklands into a multi-use urban parkland for the region of Western Sydney.

Clause 9 of the Policy provides that land within the Parklands is unzoned. However clause 6(2) states that Part 3 of the *State Environmental Planning Policy (Infrastructure) 2007* applies to the Western Parklands as if it was in a prescribed zone under that policy.

Clause 11 of SEPP (Western Sydney Parklands) provides that the following development may be carried out without development consent but only if it is carried out by or on behalf of a public authority:

*“cafes; community facilities; entertainment facilities; environmental facilities; environmental protection works; function centres; information and education facilities; kiosks; landscaping; maintenance depots; public administration buildings; recreation areas; recreation facilities (outdoor); signage (for directional, informative, or interpretative purposes); ticketing facilities.”*

Other developments, excluding development for the purposes of residential accommodation may be carried out in the parklands only with development consent.

Clause 12 of the Policy sets out the matters to be generally considered by a consent authority in determining a development application for development on land in the Western Parklands.

- (a) the aim of this Policy, as set out in clause 2,*
- (b) the impact on drinking water catchments and associated infrastructure,*
- (c) the impact on utility services and easements,*
- (d) the impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities,*
- (e) the impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland,*
- (f) the impact on the Western Parkland’s linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use,*
- (g) the impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of western Sydney,*
- (h) the impact on public access to the Western Parklands,*
- (i) consistency with:*
  - (i) any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or*
  - (ii) any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part,*
- (j) the impact on surrounding residential amenity,*
- (k) the impact on significant views,*
- (l) the effect on drainage patterns, ground water, flood patterns and wetland viability,*
- (m) the impact on heritage items,*
- (n) the impact on traffic and parking.*

The greenwaste facility is an approved use on the site and the proposed modification will not alter the nature of operations and its management as previously approved. The inclusion of additional area to the facility and addition of the mechanical workshop shed will not impact on the development, operation and management of the Western Parklands and access to it.

There are no additional impacts to residential amenity, significant views, heritage items and traffic and parking.

Overall the proposal is not considered to hinder the aims of the Policy as it involves the physical extension of an existing approved facility within an area used for waste management purposes.

- State Environmental Planning Policy (Infrastructure) 2007

This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW.

Division 23 of the SEPP applies to waste or resource management facilities. The subject facility falls under the definition of resource recovery facility as follows:

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

In addition a ‘waste or resource management facility’ *means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.*

Clause 121(1) provides that development for the purpose of waste or resource management facilities, may be carried out by any person with consent on land in a prescribed zone. As noted above Clause (6) of the SEPP (Western Sydney Parklands) 2009, identifies the site as a prescribed zone.

However, as previously noted, the greenwaste facility is a previously approved use on the site and the proposed modification is not considered to significantly alter the approved use of the site. As such SEPP (Infrastructure) 2007 does not affect the proposal.

- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been modified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been differed indefinitely or has not been approved); and***

No such instrument applies to this proposal.

- (iii) any development control plan; and***

No development control plans apply to this proposal.

- (iv) any planning agreement that has been entered into under section 93F, to any draft planning agreement that a developer has offered to enter into under section 93F, and***

No planning agreement entered into under section 93F applies to the existing consent or the proposed modification.

- (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

The facility is classified as designated development under Clause 32 of Schedule 3 of the regulations. However Clause 35 of Schedule 3 states:

*Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent*

*authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.*

In this regard, this Statement indicates that the proposed modification will not significantly increase the environmental impacts of the total development and is therefore not designated development under the regulations.

Additionally the regulations make certain requirements with respect to applications for Modification of Consents under S.96(2) pertaining, in particular, to content of the application (s.115) and public participation in the assessment process (s.118). The application and its assessment will be consistent with these requirements.

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

The modification application is to extend the existing consent to allow a minor extension of the approved footprint and to incorporate various adjunct facilities including a maintenance zone (workshop shed, fuel supply area, water tanks and manoeuvring area and amenities block). The additional area extends onto previously unoccupied land to the south of the existing facility. The modification does not change the currently approved tonnages being processed by the facility.

The Statement of Environmental Effects (**SEE**), prepared by ERM (2003) for modification to expand the capacity of the existing green waste processing facility (MOD-94-9-2003i; 17 November 2004) assessed the impact of the proposal under the following headings:

- Land use
- Groundwater
- Drainage and Water Quality
- Air Quality
- Noise
- Flora and Fauna
- Visual Impacts
- Archaeology and heritage
- Traffic and Access
- Waste
- Hazardous Material
- Utilities and Services
- Public and Worker Safety
- Fire Safety
- Cumulative Impact

In order to illustrate the impacts of this Modification in comparison with the 2004 Consent, each of these matters is briefly discussed below.

- Land use

The proposed modification to extend the greenwaste platform as discussed in this statement is contained wholly within the Eastern Creek WRC. Operations of the facility are integrated with other waste management activities on the site and there will be no significant impact on surrounding land uses.

- Groundwater

The greenwaste platform (including the extension area subject of this modification) is covered with a low permeable shale/clay hardstand, effectively preventing any seepage of surface water into any underlying groundwater. Existing bores are used to monitor any changes in groundwater conditions and monitoring is undertaken in accordance with relevant Environmental Planning Licence (**EPL**) conditions.

- Drainage and Water Quality

The western platform continues to drain to the ANL dam, situated to the west of the platform whilst the eastern platform drains to the dam situated to the north-east of the eastern platform. There are no proposed changes to the drainage arrangements on site. The SEE concluded, following hydraulic analysis and modelling, that both dams could be expected to overflow less than once in 10years on average. Additionally water quality is monitored in accordance with the requirements of the EPL for the site.

- Air Quality

Air quality impacts were discussed in the SEE with respect to dust and odour. Dust minimising measures were noted in the SEE and ongoing monitoring of dust is carried out on site. Dust emissions would not change as a result of the proposal and impacts would remain acceptable.

An odour assessment was undertaken by PAEHolmes (formerly Holmes Air Sciences) to assess the potential impact of extending the site area of the existing greenwaste operation. A statement from PAEHolmes is contained in Appendix A.

The statement notes:

*“We understand that the modification would not result in any increase in input tonnage or production rate; therefore any increase in odour impacts is very unlikely. However as the source of odour is stockpiled greenwaste/composted material, it is possible that there could be an increase in the emitting surface area given that there is potential to spread the material out further. This is unlikely, given that the site operations would not change and the purpose of the expansion is to allow more efficient operation of the site which could be hindered by a significant increase in stockpile area.”*

As such, given that there will be no change to current operations on site, the proposed extension will not result in an increase in odour from the facility.

- Noise

The SEE demonstrated compliance with noise level restrictions applied by the EPL for the site. As noted above, there are no proposed changes to the current operation of the facility and as such there will be no additional noise impacts. Ongoing noise monitoring is carried out on site to ensure continued compliance with noise limits.

- Flora and Fauna

The proposed extension will not have any affect on flora and fauna as the extended area utilises an existing cleared area.

- Visual Impacts

There will be no additional visual impacts on the surrounding area as the proposed extension will be located within the existing waste management facility and cannot be viewed from outside the Eastern Creek WRC.

Additionally there is existing planting along the eastern, western and southern boundaries that provides additional screening and improves the overall appearance of the site.

- Archaeology and Heritage

The SEE stated that there are no heritage listed items or known items of archaeological significance on or near the site.

- Traffic and Access

As the modification does not change the existing operations and management of the facility, there will be no increase in traffic accessing the site. Also, there are no changes to existing access arrangements onsite.

- Waste

Given that there are no proposed changes to the operations on site, the handling of any wastes will remain unchanged. As noted in the SEE, the only wastes onsite relate to contaminants in the greenwaste. These wastes are removed from the green waste prior to processing and are recycled or disposed of to landfill as appropriate.

- Hazardous Material

The handling of any potential hazardous wastes remains unchanged on site. Any Hazardous wastes brought to the site are separated and disposed of to a premises licensed to accept hazardous materials.

- Utilities and Services

The amenities building is serviced by a bio-septic system. The site is connected to reticulated water and electricity is supplied via existing services to the WRC.

- Public and Worker Safety

The facility has a Site Safety Management Plan and System in place; Environmental risk assessment, including OH & S assessment conducted in accordance with the site's EMP. Additionally, site workers are inducted to the site and trained accordingly.

- Fire Safety

There will be no change to current fire management practises on site. Fire management practices are outlined in the facility's Fire Management Plant. Fire fighting equipment is accessible on site and site staff are trained to manage any fire outbreaks.

- Cumulative Impact

Operation of the current facilities creates positive cumulative impacts at social, economic and environmental levels. The proposed amendments will have no negative impacts and will contribute to these existing positive impacts.

**(c) *The suitability of the site for the development;***

The greenwaste facility has been operating on the site since it was approved in 1996. The additional area that is the subject of this application extends onto previously unused land to the south of the existing facility. The proposed modification is to alter the footprint of the facility and include a mechanical workshop shed. It will not change the nature or intensity of the operations of the facility. The workshop shed, which is necessary for the operations of the facility, is built on the extended site as it provides a stable building platform on unfilled land in preference to the currently approved area which incorporates only filled land which may be unsuitable for building construction. On this basis it is considered that the site will remain suitable for the development as modified.

**(d) *Any submissions made in accordance with this Act or the regulations;***

Submissions made to the notification of the proposed modification will be considered by the applicant and the proposal will be amended if required prior to final consideration by the Minister.

**(e) *The public interest***

The facility receives and processes greenwastes from local council areas, from other WSN transfer stations and from commercial contractors into quality compost products. As noted above there will be no change to the management and operation of the facility. The facility will continue to service the green waste recycling needs of the area.

The proposed modification will allow for more efficient operations to be carried out on site and allow the facility to better service the needs of the public in this respect with no impacts to the amenity of the locality.

The overall outcome of this assessment is that the proposed modification is considered to have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act

## **7.0 CONCLUSIONS**

The proposed extension of the greenwaste facility is required to allow for more efficient operations to occur on site. In addition the extension includes a workshop building that could not be located within the approved footprint of the site given the hazards of such construction on filled land.

The proposal is to modify the Ministers Consent 29/19 dated 2 June 1996 (as modified on 17 November 2004 and 6 July 2007) by addition of the workshop building and by modifying Condition 4 to allow extension onto the adjoining allotment over a total additional site area of 0.95 hectares.

This assessment has indicated that the proposed modification is consistent with the requirements of S.96(2) of the *Environmental Planning and Assessment Act 1979* in that:

- The modification will result in 'substantially the same development' as that originally approved; and
- The development will have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.



Given the minor nature of the proposal and that there is not considered to be any additional impacts or changes to current operations on site, the proposed modification is considered substantiated.

**APPENDIX A: ODOUR IMPACT STATEMENT**



## **EASTERN CREEK WASTE AND RECYCLING CENTRE**

**APPLICATION UNDER S.96(2) OF THE *ENVIRONMENTAL  
PLANNING AND ASSESSMENT ACT 1979* TO MODIFY THE  
MINISTERS CONSENT NO. S29/19 (2 JULY 1996):**

**WORKSHOP BUILDING AND EXTENSION OF GREEN WASTE  
PLATFORM AREA**

***STATEMENT OF ENVIRONMENTAL EFFECTS***

**26 March 2010**

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## 1.0 INTRODUCTION

WSN Environmental Solutions (**WSN**) operates the Eastern Creek Waste & Recycling Centre (**WRC**) located off Wallgrove Road, Eastern Creek on land partially owned by Department of Planning (**the Department**) and partially owned by WSN. As consented, the Eastern Creek Green Waste Facility (**the facility**) operates within the greater Eastern Creek site on Lot 2, DP 1073820. This lot incorporates land leased from the Department and sub-leased by WSN to Australian Native Landscapes (**ANL**) the operator of the facility. In its current configuration, the facility also occurs partially on Lot 11, DP 1048435, land in the ownership of WSN.

The Facility operates under the Minister's development consent no. SEPP29/19 dated 2 July 1996 as modified on 12 October 1997, 17 November 2004 and 6 July 2007.

Condition 4 of this consent reads:

*"The facility is to be restricted to the designated 3.5 hectare site in the first stage and the final stage of the development involving a second additional 2.2 hectare site, as per the plans contained in the Eastern Creek Waste Processing Facility EIS, July 1995. Any further expansion of the development site will require separate development consent."*

The footprint of the facility has extended beyond its originally approved 5.7 ha limit and now covers a total area of 6.65 hectares. The extended area supports a workshop shed, a refuelling bay, water tanks and minor encroachments of existing stockpiles. This application seeks to modify Consent S29/19 under S.96(2) of the *Environmental Planning and Assessment Act, 1979 (the Act)* to provide for extension of the greenwaste facility footprint and to allow the operations that are not subject to the existing consents.

## 2.0 SITE PARTICULARS (Figures 1 & 2)

The Eastern Creek WRC is located on part of Lot 1 and 2 DP1073820, Lot 11 DP1048435, Lot 2 DP1059698 and Lot 12 DP1049029 off Wallgrove Road, Eastern Creek. Lot 11 DP1048435 and Lot 2 DP1059698 in the south is owned by WSN, while the remainder of the site is leased from the NSW Department of Planning (refer Figure 1).

The Eastern Creek WRC is located off Wallgrove Road, Eastern Creek, within the Blacktown Local Government Area (LGA).

Completed landfill Areas 1 to 4, are located on the western side of Eastern Creek WRC within the area known as Eastern Creek 1. Eastern Creek 2 landfill is divided into areas referred to as the 'Southern Cells' and the 'Northern Cells' (cells 4, 6 and 7). Landfilling operations are now complete at the Southern Cells, with rehabilitation works currently planned. Landfill operations are currently carried out at the 'Northern Cells'.

In addition WSN also operates a leachate treatment plant, subleases to Energy Developments Ltd (**EDL**) who operate a landfill to gas power plant situated at the Wallgrove Road entrance to the site and also operates their own landfill gas power plant in conjunction with Landfill Management Services Pty (**LMS**). Figure 2 shows an aerial view of the facilities at the site and surrounds.

The Green Waste Processing Facility is located within the area known as Eastern Creek 1. Under the current consent it operates on Lot 2, DP 1073820. A survey of the Green Waste Processing Facility is contained in Figure 3.

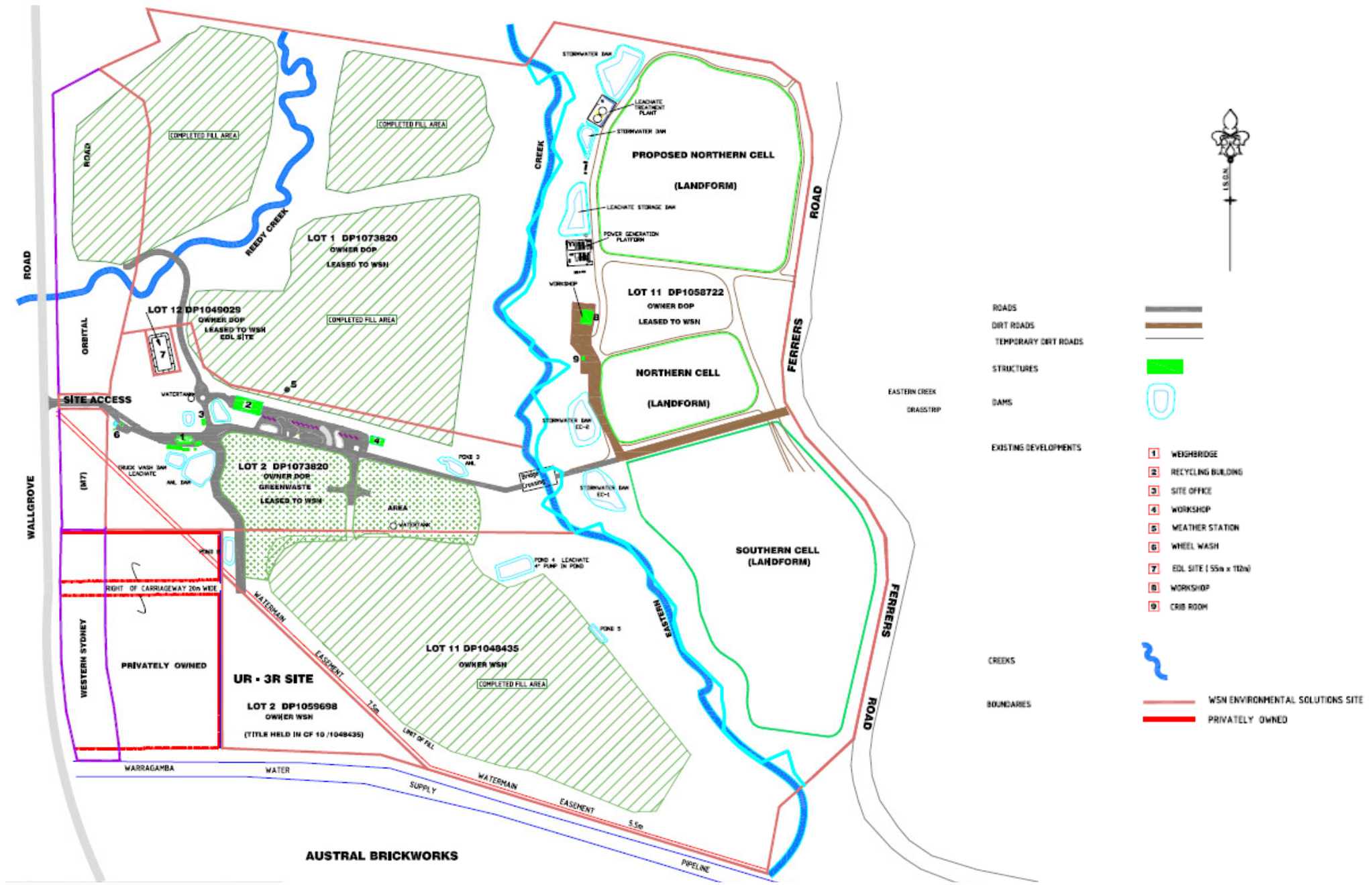


Figure 1: Site Plan and Cadastral information (Subject Site stippled green)  
Page 4

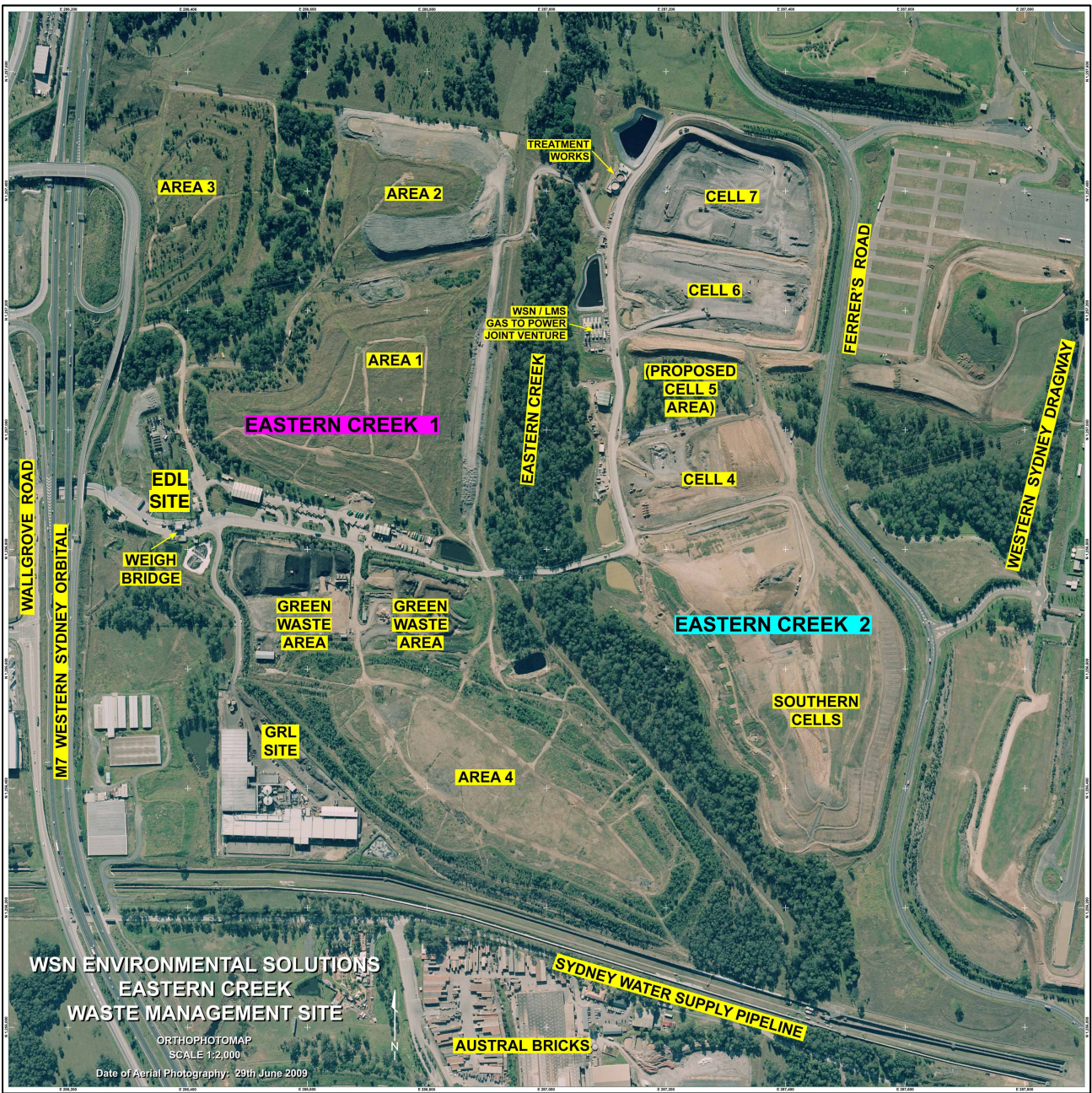


Figure 2: Eastern Creek Site Plan and Surrounds

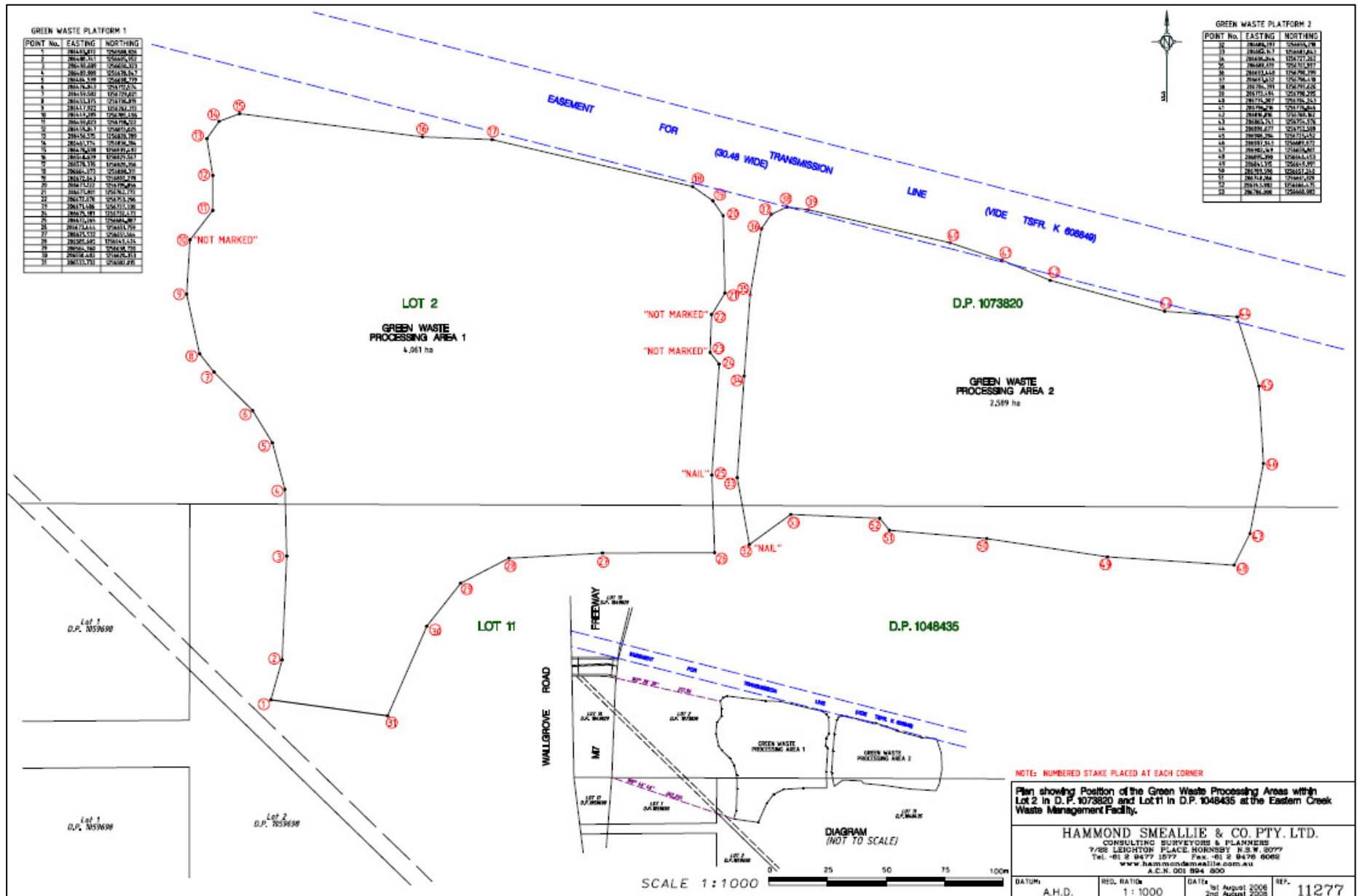


Figure 3: Site Survey of Greenwaste platforms)



### 3.0 CONSENT HISTORY

The following consent and modifications are of relevance to this application:

- Original Consent – Minister’s approval, S29/19 (2 June 1996), for development of a green waste processing facility.
- Modification to add a ‘Trial Aerated Static Pile Facility’ (S29/19-mod; 12 October 1997)
- Modification to expand the capacity of the existing green waste processing facility, including an increase in tonnages, upgrade works, replacement of administration buildings, establishment of vehicle parking and changes to stockpile configurations (MOD-94-9-2003i; 17 November 2004)
- Modification to modify the hours of operation of the green waste processing facility (MOD-53-6-2007i; 6 July 2007)

The **original consent (SEPP29/19, dated 2 June 1996)**, approved the development of a greenwaste processing facility, including:

- Construction of two platforms with sufficient area to accommodate receipt, shredding, composting, stockpiling and dispatching of greenwaste.
- Approval to handle up to 50,000 tonnes of greenwaste per year.
- Operations to initially occur on the western platform (with a site area of 3.5 hectares), with the eastern platform (site area of 2.2 hectares) earmarked for future expansion (refer Figure 4).

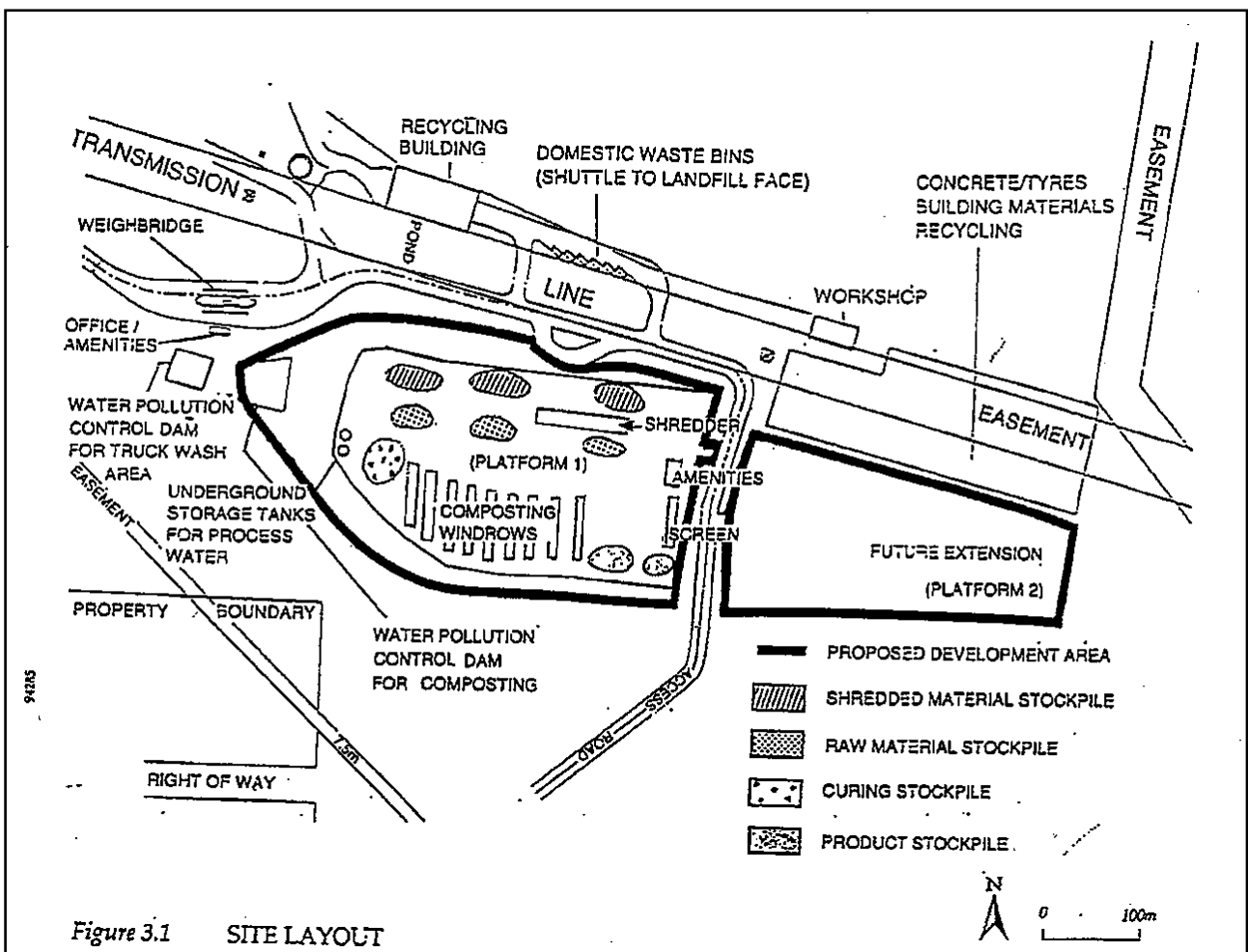


Figure 3.1 SITE LAYOUT

Figure 4: Site Layout as per consent no. S29/19 (2 June 1996)

Subsequently the site layout was altered via **MOD-94-9-2003i** (dated 17 November 2004). This modification approved the expansion of the greenwaste processing facility, including:

- An increase in accepted tonnages to 80,000 tonnes per annum;
- Major upgrade works which altered the site layout of the facility.
- A new portable building on the eastern platform (to replace the original administration building that was destroyed by fire in 2002).
- A vehicle parking and equipment maintenance area (on the western platform near the southern boundary of the site); and
- Changes to the stockpile configurations within the originally consented 5.7ha footprint (as illustrated below in Figures 5 and 6).

A copy of the site layout from the Statement of Environmental Effects, prepared by Mitchell McCotter for this modification is contained in Figures 5 and 6.

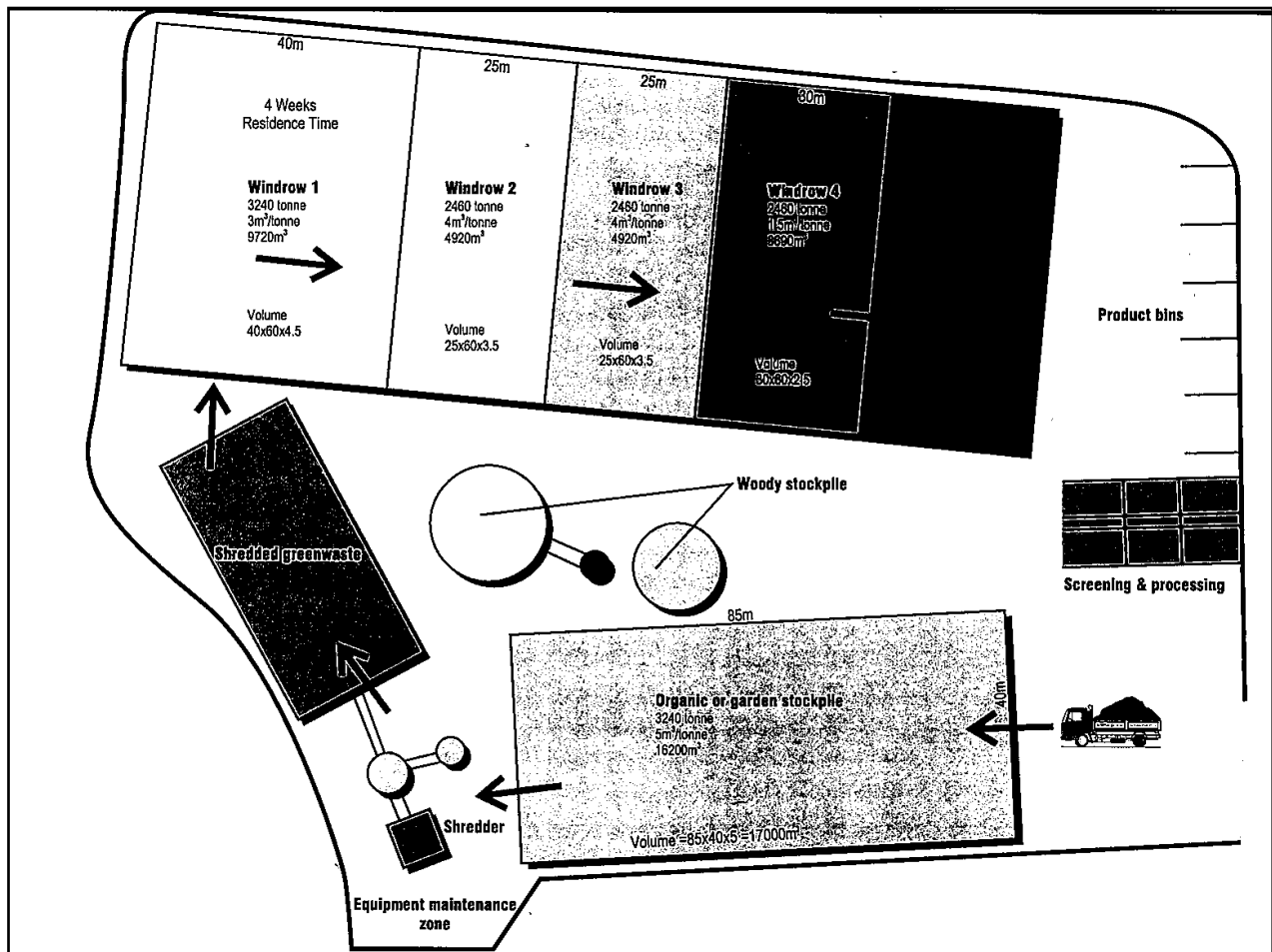


Figure 5: Western Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

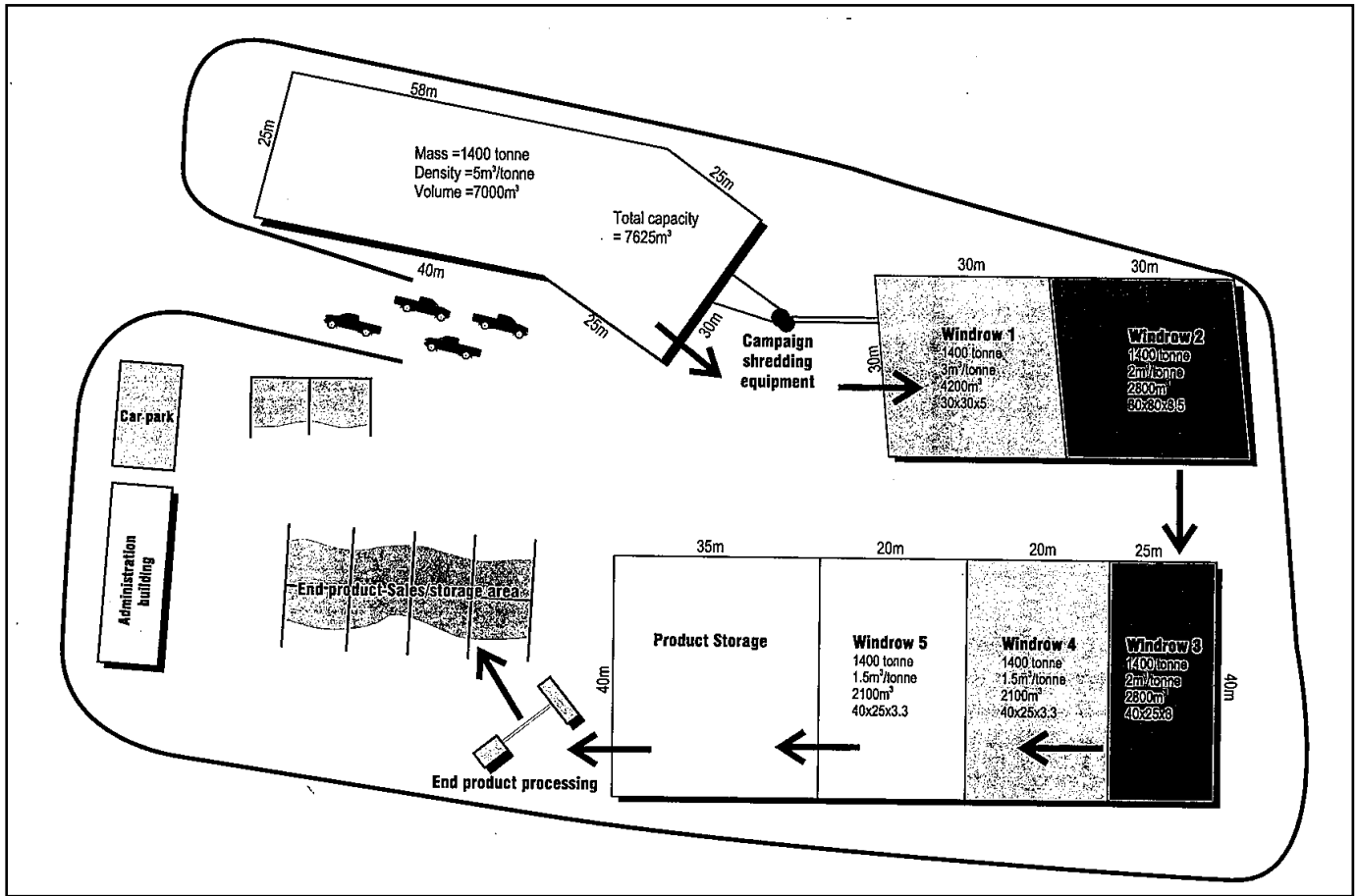


Figure 6: Eastern Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

#### 4.0 PROPOSED MODIFICATION

As approved the site occupies 5.7 hectares of closed former landfill area and consists of two platforms - the western platform (3.5 hectares) and the eastern platform (2.2 hectares), all within Lot 2 DP1073820.

The proposal seeks to modify Condition 4 of the original consent to allow for:

- the continued operation of the facility over a larger area beyond the 5.7 hectares consented by this condition (approval is sought for an extension of the area of the facility to the south onto Lot 11 DP 1048435, involving an addition of 0.95 hectares and resulting in a new total area of 6.65 hectares);
- an existing steel workshop building of dimensions 30m x 12m and 6m high on an extension to the western platform;
- sundry additional structures (an amenities building of dimensions 8.5m x 3m and 2.4m high, a refuelling bay and 3 4.4m diameter x 3m high water tanks); and
- Some minor encroachments of the eastern and western stockpile areas

The extended area will primarily encompass the unfilled land that previously formed a buffer between the approved greenwaste platform area and the Area 4 landfill. The new boundaries follow the natural landform, and are consistent with the contours that define the edge of the former Area 4 landfill

The proposal generally maintains the same layout and operations as previously approved in Modification No. MOD-94-9-2003i and as shown in figures 5 and 6. The

operations will be simply occurring on a slightly larger footprint than was originally approved.

The proposal will not result in any increase to production or input tonnages and no changes to current operations or management of the facility are proposed. The modified footprint will simply allow for more efficient operations to be carried out on site.

Figure 7 illustrates the existing approved area and the extension that is requested to be consented in this application.



Figure 7: Existing approved area and proposed extension

## 5.0 JUSTIFICATION FOR THE PROPOSAL

In comparison with the existing consent regime, current operations at the Green Waste Processing facility are not materially changed by the modifications proposed in this application, notwithstanding that they occur over a marginally larger footprint than consented.

The marginal extension of the operational area of the facility has occurred on previously unused land that acted as a buffer to the landfill activities on the former Area 4 landfill (see Figure 1). When the Area 4 landfill was closed in 2002, the buffer became redundant and the use of the land for operational purposes became viable for the purposes of improving the efficiency of operations of the greenwaste facility. The land is unfilled, vacant and arguably of no value for other purposes within the current range of activities occurring on the greater Eastern Creek WRC site. For this reason, it is considered that extension of the greenwaste facility operations is an appropriate and acceptable use of the land.

In essence, the extended area supports activities that are adjunct to the operations of the greenwaste facility. These include:

- An equipment maintenance zone on the extension to the western platform, including the maintenance shed, vehicle manoeuvring area, refuelling facility and water tanks. This area is used exclusively for storage and maintenance of equipment used by the greenwaste facility (refer to photos 1 and 2).
- Minor portions of the western and eastern stockpiles; and
- The amenities block, also used exclusively by the greenwaste facility.

The extended configuration of the site is generally consistent with the currently approved site layout, (refer to figures 5, 6 and 7), arranged over a marginally extended site area the limits of which are essentially dictated by the finished contours of the Area 4 landfill, which forms a natural boundary to the new area.



*Photo 1: Maintenance Shed and Equipment Maintenance zone (Source: WSN)*



*Photo 2: Refuelling facility and water tanks (Source: WSN)*

Critically, the extension supports only facilities that were approved in the modified consent, located on stable, unfilled land that is suitable for construction and for heavy vehicular traffic. Moreover, the facility in its extended form receives no additional tonnage of processing materials over and above the current consent as modified.

Overall there will be no additional impact from the extension of the site area as the facility will generally maintain its current operational and management procedures.

When the above outcomes are taken into account in combination with the minimal environmental impacts identified in this Statement, it is considered that the proposed modification is justified.

## 6.0 PLANNING COMPLIANCE

This application has been prepared pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*. Section 96(2) permits the Consent Authority to modify a Consent after the consideration of the following:

1. Whether the modification will result in 'substantially the same development' as that originally approved; and
2. whether the development has acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

An assessment of the proposal under each of these points follows:

### 6.1 *Substantially the same development*

It is considered that the modification is substantially the same development as currently consented for the following reasons:

- the proposal is for the continued operation of the facility in the same manner as originally approved and the proposed increase in the site area and addition of the workshop shed will not alter the production capacity of the existing facility.
- the processes and management of the operations at the facility will remain the same as outlined in the original application for development consent as modified (consent No. s29/19 dated 2 June 1996 as modified on 17 November 2004 and 6 July 2007).
- The proposed modification is minor in nature and is not considered likely to result in any unacceptable environmental impacts.

#### 6.1.1 Extension of the development into another lot

The original consent applied to Lot Y in DP 376524, which became Lot 11 in DP 1049029 and subsequently Lot 2 in DP 107820, as it is currently known. An issue arises as to whether the consent applying to this lot can be modified to extend onto the allotment to the south (Lot 11 DP 1048435).

The following table provides a summary of the consents applying to the greenwaste facility and the relevant land descriptions.

Consent No.	Date	Consent for:	Lots in land description
S29/19	2 June 1996	Development of greenwaste facility	Lot Y DP376524
S29/19-mod	12 October 1997	Trial aerated static pile facility	n/a
Mod-94-9-2003i	17 November 2004	Expand capacity of facility. Including increase in tonnages, upgrade works, replacement of administration buildings, vehicle parking and changes to stockpile configuration	Lot 11 DP1049029 (formerly Lot Y DP376524) and Lot 11 DP1048435
Mod-53-3-2007i	6 July 2007	Modification to hours of operation	Lot 2 DP1073820 (formerly Lot11 DP1049029)



As noted in the table above the lot numbers as listed in the land description for the original consent and subsequent modifications vary. The lot where the increase in site area is proposed – Lot 11 DP1048435 – is listed in the modification consent for the expansion of the facilities capacity. In effect, therefore, the current consent as modified applies to both land parcels.

Notwithstanding this, the validity of the proposed extension being considered as a modification under section 96(2) is supported in a recent court appeal against the refusal of an application under section 96(2) to modify a development consent to expand the area of land used for the development approved by the consent [*Scrap Realty Pty Limited v Botany City Council* [2008] NSW LEC333 (19 Dec 2008)].

In this matter, the Court held that the consent authority has the power to modify a consent so that it applies to land additional to that to which the original consent applied provided that the consent authority is satisfied the modification will result in a development which is substantially the same as that which was originally consented.

The Commissioner commented that:

*As far as the condition precedent is concerned, the alteration is of “the development” – it expands the area on which development is carried out. There obviously will be questions of fact and degree in ascertaining whether the development before and after modification can be said to be substantially the same. Nevertheless, an expansion of the area on which development is carried out by adding land not the subject of the original consent is not inherently outside the concept of modification of the development under s.96. (Scrap Realty Pty Ltd v Botany City Council [2008] 19 LEC333)*

Given the conclusion of this assessment that the proposal will result in substantially the same development as currently approved, the extension of the facility onto the adjoining allotment is considered consistent with the legal precedent set by the Court and should not preclude approval of the modification.

## **6.2 Matters of consideration in Section 79C of the Act**

An assessment of the proposal against the relevant matters for consideration is contained below:

### **(a) the provisions of:**

#### **(i) any environmental planning instrument,**

- State Environmental Planning Policy (Western Sydney Parklands) 2009

This State Environmental Planning Policy (SEPP) applies to all lands within the Western Sydney Parklands, including the area of the Eastern Creek WRC. The aim of the Policy is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Sydney Parklands into a multi-use urban parkland for the region of Western Sydney.

Clause 9 of the Policy provides that land within the Parklands is unzoned. However clause 6(2) states that Part 3 of the *State Environmental Planning Policy (Infrastructure) 2007* applies to the Western Parklands as if it was in a prescribed zone under that policy.

Clause 11 of SEPP (Western Sydney Parklands) provides that the following development may be carried out without development consent but only if it is carried out by or on behalf of a public authority:

*“cafes; community facilities; entertainment facilities; environmental facilities; environmental protection works; function centres; information and education facilities; kiosks; landscaping; maintenance depots; public administration buildings; recreation areas; recreation facilities (outdoor); signage (for directional, informative, or interpretative purposes); ticketing facilities.”*

Other developments, excluding development for the purposes of residential accommodation may be carried out in the parklands only with development consent.

Clause 12 of the Policy sets out the matters to be generally considered by a consent authority in determining a development application for development on land in the Western Parklands.

- (a) the aim of this Policy, as set out in clause 2,*
- (b) the impact on drinking water catchments and associated infrastructure,*
- (c) the impact on utility services and easements,*
- (d) the impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities,*
- (e) the impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland,*
- (f) the impact on the Western Parkland’s linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use,*
- (g) the impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of western Sydney,*
- (h) the impact on public access to the Western Parklands,*
- (i) consistency with:*
  - (i) any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or*
  - (ii) any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part,*
- (j) the impact on surrounding residential amenity,*
- (k) the impact on significant views,*
- (l) the effect on drainage patterns, ground water, flood patterns and wetland viability,*
- (m) the impact on heritage items,*
- (n) the impact on traffic and parking.*

The greenwaste facility is an approved use on the site and the proposed modification will not alter the nature of operations and its management as previously approved. The inclusion of additional area to the facility and addition of the mechanical workshop shed will not impact on the development, operation and management of the Western Parklands and access to it.

There are no additional impacts to residential amenity, significant views, heritage items and traffic and parking.

Overall the proposal is not considered to hinder the aims of the Policy as it involves the physical extension of an existing approved facility within an area used for waste management purposes.

- State Environmental Planning Policy (Infrastructure) 2007

This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW.

Division 23 of the SEPP applies to waste or resource management facilities. The subject facility falls under the definition of resource recovery facility as follows:

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

In addition a ‘waste or resource management facility’ means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

Clause 121(1) provides that development for the purpose of waste or resource management facilities, may be carried out by any person with consent on land in a prescribed zone. As noted above Clause (6) of the SEPP (Western Sydney Parklands) 2009, identifies the site as a prescribed zone.

However, as previously noted, the greenwaste facility is a previously approved use on the site and the proposed modification is not considered to significantly alter the approved use of the site. As such SEPP (Infrastructure) 2007 does not affect the proposal.

- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been modified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been differed indefinitely or has not been approved); and***

No such instrument applies to this proposal.

- (iii) any development control plan; and***

No development control plans apply to this proposal.

- (iv) any planning agreement that has been entered into under section 93F, to any draft planning agreement that a developer has offered to enter into under section 93F, and***

No planning agreement entered into under section 93F applies to the existing consent or the proposed modification.

- (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

The facility is classified as designated development under Clause 32 of Schedule 3 of the regulations. However Clause 35 of Schedule 3 states:

*Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent*

*authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.*

In this regard, this Statement indicates that the proposed modification will not significantly increase the environmental impacts of the total development and is therefore not designated development under the regulations.

Additionally the regulations make certain requirements with respect to applications for Modification of Consents under S.96(2) pertaining, in particular, to content of the application (s.115) and public participation in the assessment process (s.118). The application and its assessment will be consistent with these requirements.

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

The modification application is to extend the existing consent to allow a minor extension of the approved footprint and to incorporate various adjunct facilities including a maintenance zone (workshop shed, fuel supply area, water tanks and manoeuvring area and amenities block). The additional area extends onto previously unoccupied land to the south of the existing facility. The modification does not change the currently approved tonnages being processed by the facility.

The Statement of Environmental Effects (**SEE**), prepared by ERM (2003) for modification to expand the capacity of the existing green waste processing facility (MOD-94-9-2003i; 17 November 2004) assessed the impact of the proposal under the following headings:

- Land use
- Groundwater
- Drainage and Water Quality
- Air Quality
- Noise
- Flora and Fauna
- Visual Impacts
- Archaeology and heritage
- Traffic and Access
- Waste
- Hazardous Material
- Utilities and Services
- Public and Worker Safety
- Fire Safety
- Cumulative Impact

In order to illustrate the impacts of this Modification in comparison with the 2004 Consent, each of these matters is briefly discussed below.

- Land use

The proposed modification to extend the greenwaste platform as discussed in this statement is contained wholly within the Eastern Creek WRC. Operations of the facility are integrated with other waste management activities on the site and there will be no significant impact on surrounding land uses.

- Groundwater

The greenwaste platform (including the extension area subject of this modification) is covered with a low permeable shale/clay hardstand, effectively preventing any seepage of surface water into any underlying groundwater. Existing bores are used to monitor any changes in groundwater conditions and monitoring is undertaken in accordance with relevant Environmental Planning Licence (**EPL**) conditions.

- Drainage and Water Quality

The western platform continues to drain to the ANL dam, situated to the west of the platform whilst the eastern platform drains to the dam situated to the north-east of the eastern platform. There are no proposed changes to the drainage arrangements on site. The SEE concluded, following hydraulic analysis and modelling, that both dams could be expected to overflow less than once in 10years on average. Additionally water quality is monitored in accordance with the requirements of the EPL for the site.

- Air Quality

Air quality impacts were discussed in the SEE with respect to dust and odour. Dust minimising measures were noted in the SEE and ongoing monitoring of dust is carried out on site. Dust emissions would not change as a result of the proposal and impacts would remain acceptable.

An odour assessment was undertaken by PAEHolmes (formerly Holmes Air Sciences) to assess the potential impact of extending the site area of the existing greenwaste operation. A statement from PAEHolmes is contained in Appendix A.

The statement notes:

*“We understand that the modification would not result in any increase in input tonnage or production rate; therefore any increase in odour impacts is very unlikely. However as the source of odour is stockpiled greenwaste/composted material, it is possible that there could be an increase in the emitting surface area given that there is potential to spread the material out further. This is unlikely, given that the site operations would not change and the purpose of the expansion is to allow more efficient operation of the site which could be hindered by a significant increase in stockpile area.”*

As such, given that there will be no change to current operations on site, the proposed extension will not result in an increase in odour from the facility.

- Noise

The SEE demonstrated compliance with noise level restrictions applied by the EPL for the site. As noted above, there are no proposed changes to the current operation of the facility and as such there will be no additional noise impacts. Ongoing noise monitoring is carried out on site to ensure continued compliance with noise limits.

- Flora and Fauna

The proposed extension will not have any affect on flora and fauna as the extended area utilises an existing cleared area.

- Visual Impacts

There will be no additional visual impacts on the surrounding area as the proposed extension will be located within the existing waste management facility and cannot be viewed from outside the Eastern Creek WRC.

Additionally there is existing planting along the eastern, western and southern boundaries that provides additional screening and improves the overall appearance of the site.

- Archaeology and Heritage

The SEE stated that there are no heritage listed items or known items of archaeological significance on or near the site.

- Traffic and Access

As the modification does not change the existing operations and management of the facility, there will be no increase in traffic accessing the site. Also, there are no changes to existing access arrangements onsite.

- Waste

Given that there are no proposed changes to the operations on site, the handling of any wastes will remain unchanged. As noted in the SEE, the only wastes onsite relate to contaminants in the greenwaste. These wastes are removed from the green waste prior to processing and are recycled or disposed of to landfill as appropriate.

- Hazardous Material

The handling of any potential hazardous wastes remains unchanged on site. Any Hazardous wastes brought to the site are separated and disposed of to a premises licensed to accept hazardous materials.

- Utilities and Services

The amenities building is serviced by a bio-septic system. The site is connected to reticulated water and electricity is supplied via existing services to the WRC.

- Public and Worker Safety

The facility has a Site Safety Management Plan and System in place; Environmental risk assessment, including OH & S assessment conducted in accordance with the site's EMP. Additionally, site workers are inducted to the site and trained accordingly.

- Fire Safety

There will be no change to current fire management practises on site. Fire management practices are outlined in the facility's Fire Management Plant. Fire fighting equipment is accessible on site and site staff are trained to manage any fire outbreaks.

- Cumulative Impact

Operation of the current facilities creates positive cumulative impacts at social, economic and environmental levels. The proposed amendments will have no negative impacts and will contribute to these existing positive impacts.

**(c) *The suitability of the site for the development;***

The greenwaste facility has been operating on the site since it was approved in 1996. The additional area that is the subject of this application extends onto previously unused land to the south of the existing facility. The proposed modification is to alter the footprint of the facility and include a mechanical workshop shed. It will not change the nature or intensity of the operations of the facility. The workshop shed, which is necessary for the operations of the facility, is built on the extended site as it provides a stable building platform on unfilled land in preference to the currently approved area which incorporates only filled land which may be unsuitable for building construction. On this basis it is considered that the site will remain suitable for the development as modified.

**(d) *Any submissions made in accordance with this Act or the regulations;***

Submissions made to the notification of the proposed modification will be considered by the applicant and the proposal will be amended if required prior to final consideration by the Minister.

**(e) *The public interest***

The facility receives and processes greenwastes from local council areas, from other WSN transfer stations and from commercial contractors into quality compost products. As noted above there will be no change to the management and operation of the facility. The facility will continue to service the green waste recycling needs of the area.

The proposed modification will allow for more efficient operations to be carried out on site and allow the facility to better service the needs of the public in this respect with no impacts to the amenity of the locality.

The overall outcome of this assessment is that the proposed modification is considered to have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act

## **7.0 CONCLUSIONS**

The proposed extension of the greenwaste facility is required to allow for more efficient operations to occur on site. In addition the extension includes a workshop building that could not be located within the approved footprint of the site given the hazards of such construction on filled land.

The proposal is to modify the Ministers Consent 29/19 dated 2 June 1996 (as modified on 17 November 2004 and 6 July 2007) by addition of the workshop building and by modifying Condition 4 to allow extension onto the adjoining allotment over a total additional site area of 0.95 hectares.

This assessment has indicated that the proposed modification is consistent with the requirements of S.96(2) of the *Environmental Planning and Assessment Act 1979* in that:

- The modification will result in 'substantially the same development' as that originally approved; and
- The development will have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

Given the minor nature of the proposal and that there is not considered to be any additional impacts or changes to current operations on site, the proposed modification is considered substantiated.



**APPENDIX A: ODOUR IMPACT STATEMENT**



## **EASTERN CREEK WASTE AND RECYCLING CENTRE**

**APPLICATION UNDER S.96(2) OF THE *ENVIRONMENTAL  
PLANNING AND ASSESSMENT ACT 1979* TO MODIFY THE  
MINISTERS CONSENT NO. S29/19 (2 JULY 1996):**

**WORKSHOP BUILDING AND EXTENSION OF GREEN WASTE  
PLATFORM AREA**

***STATEMENT OF ENVIRONMENTAL EFFECTS***

**26 March 2010**

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## 1.0 INTRODUCTION

WSN Environmental Solutions (**WSN**) operates the Eastern Creek Waste & Recycling Centre (**WRC**) located off Wallgrove Road, Eastern Creek on land partially owned by Department of Planning (**the Department**) and partially owned by WSN. As consented, the Eastern Creek Green Waste Facility (**the facility**) operates within the greater Eastern Creek site on Lot 2, DP 1073820. This lot incorporates land leased from the Department and sub-leased by WSN to Australian Native Landscapes (**ANL**) the operator of the facility. In its current configuration, the facility also occurs partially on Lot 11, DP 1048435, land in the ownership of WSN.

The Facility operates under the Minister's development consent no. SEPP29/19 dated 2 July 1996 as modified on 12 October 1997, 17 November 2004 and 6 July 2007. Condition 4 of this consent reads:

*"The facility is to be restricted to the designated 3.5 hectare site in the first stage and the final stage of the development involving a second additional 2.2 hectare site, as per the plans contained in the Eastern Creek Waste Processing Facility EIS, July 1995. Any further expansion of the development site will require separate development consent."*

The footprint of the facility has extended beyond its originally approved 5.7 ha limit and now covers a total area of 6.65 hectares. The extended area supports a workshop shed, a refuelling bay, water tanks and minor encroachments of existing stockpiles. This application seeks to modify Consent S29/19 under S.96(2) of the *Environmental Planning and Assessment Act, 1979 (the Act)* to provide for extension of the greenwaste facility footprint and to allow the operations that are not subject to the existing consents.

## 2.0 SITE PARTICULARS (Figures 1 & 2)

The Eastern Creek WRC is located on part of Lot 1 and 2 DP1073820, Lot 11 DP1048435, Lot 2 DP1059698 and Lot 12 DP1049029 off Wallgrove Road, Eastern Creek. Lot 11 DP1048435 and Lot 2 DP1059698 in the south is owned by WSN, while the remainder of the site is leased from the NSW Department of Planning (refer Figure 1).

The Eastern Creek WRC is located off Wallgrove Road, Eastern Creek, within the Blacktown Local Government Area (LGA).

Completed landfill Areas 1 to 4, are located on the western side of Eastern Creek WRC within the area known as Eastern Creek 1. Eastern Creek 2 landfill is divided into areas referred to as the 'Southern Cells' and the 'Northern Cells' (cells 4, 6 and 7). Landfilling operations are now complete at the Southern Cells, with rehabilitation works currently planned. Landfill operations are currently carried out at the 'Northern Cells'.

In addition WSN also operates a leachate treatment plant, subleases to Energy Developments Ltd (**EDL**) who operate a landfill to gas power plant situated at the Wallgrove Road entrance to the site and also operates their own landfill gas power plant in conjunction with Landfill Management Services Pty (**LMS**). Figure 2 shows an aerial view of the facilities at the site and surrounds.

The Green Waste Processing Facility is located within the area known as Eastern Creek 1. Under the current consent it operates on Lot 2, DP 1073820. A survey of the Green Waste Processing Facility is contained in Figure 3.

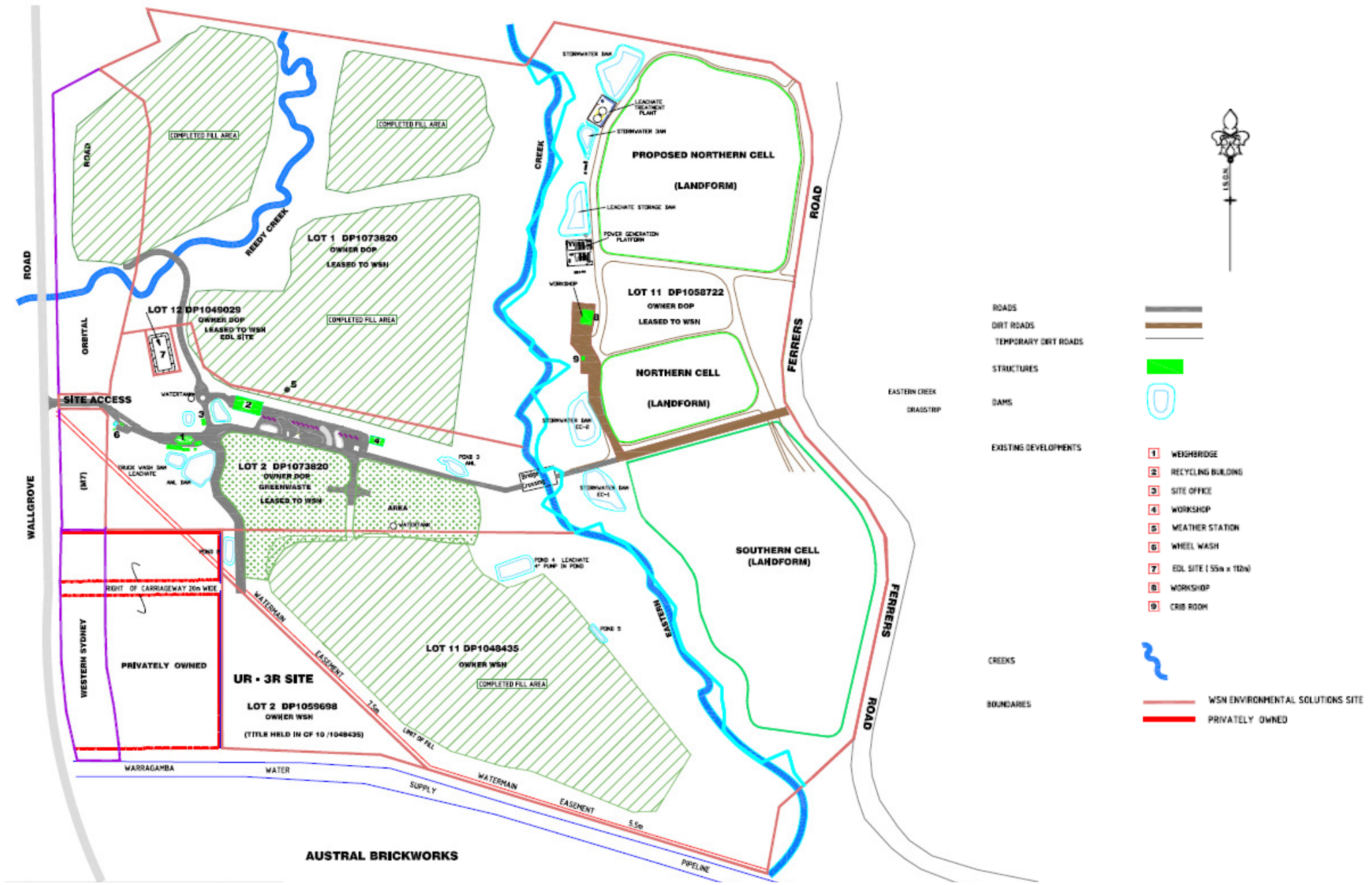


Figure 1: Site Plan and Cadastral information (Subject Site stippled green)  
Page 4

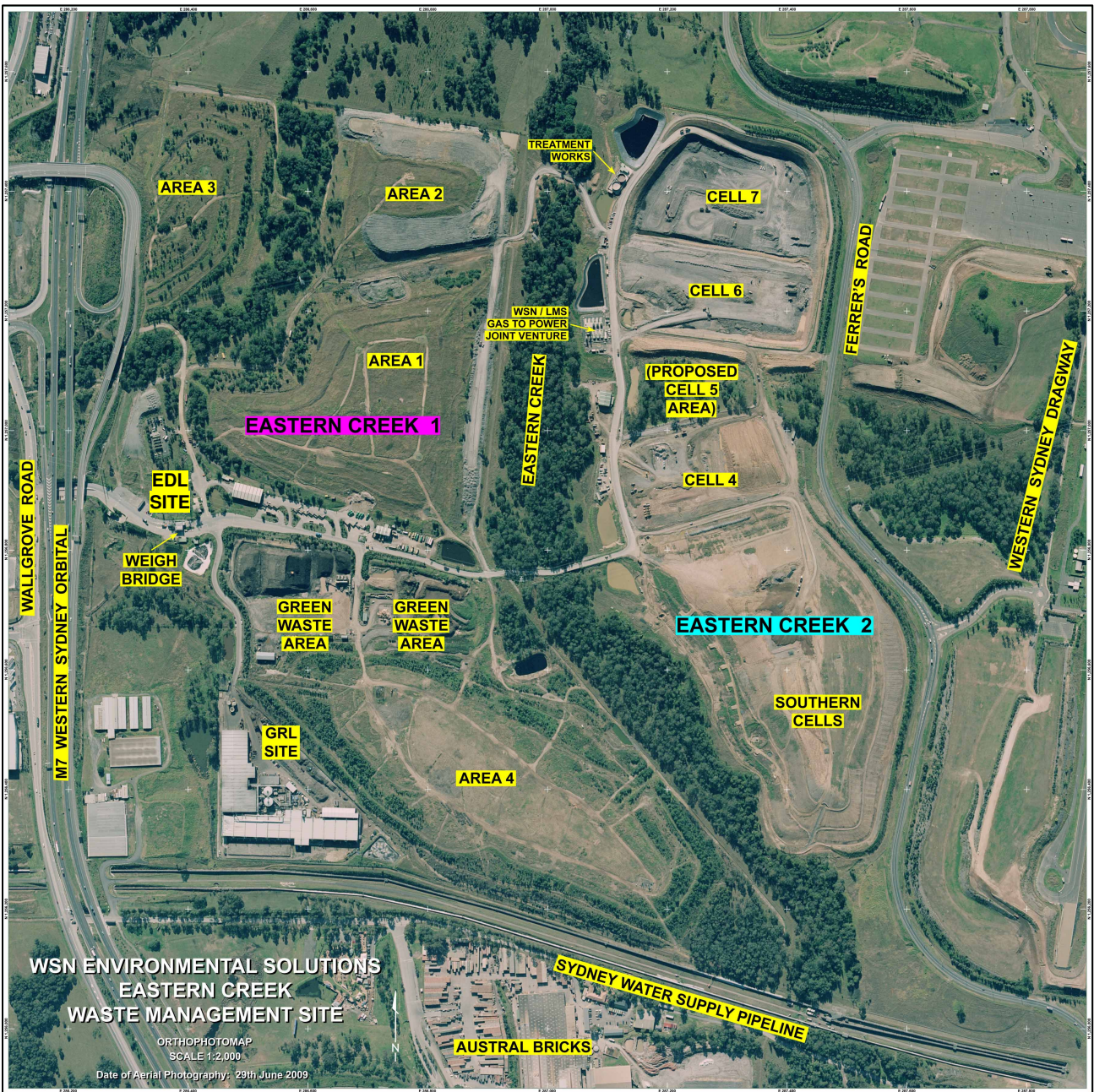


Figure 2: Eastern Creek Site Plan and Surrounds

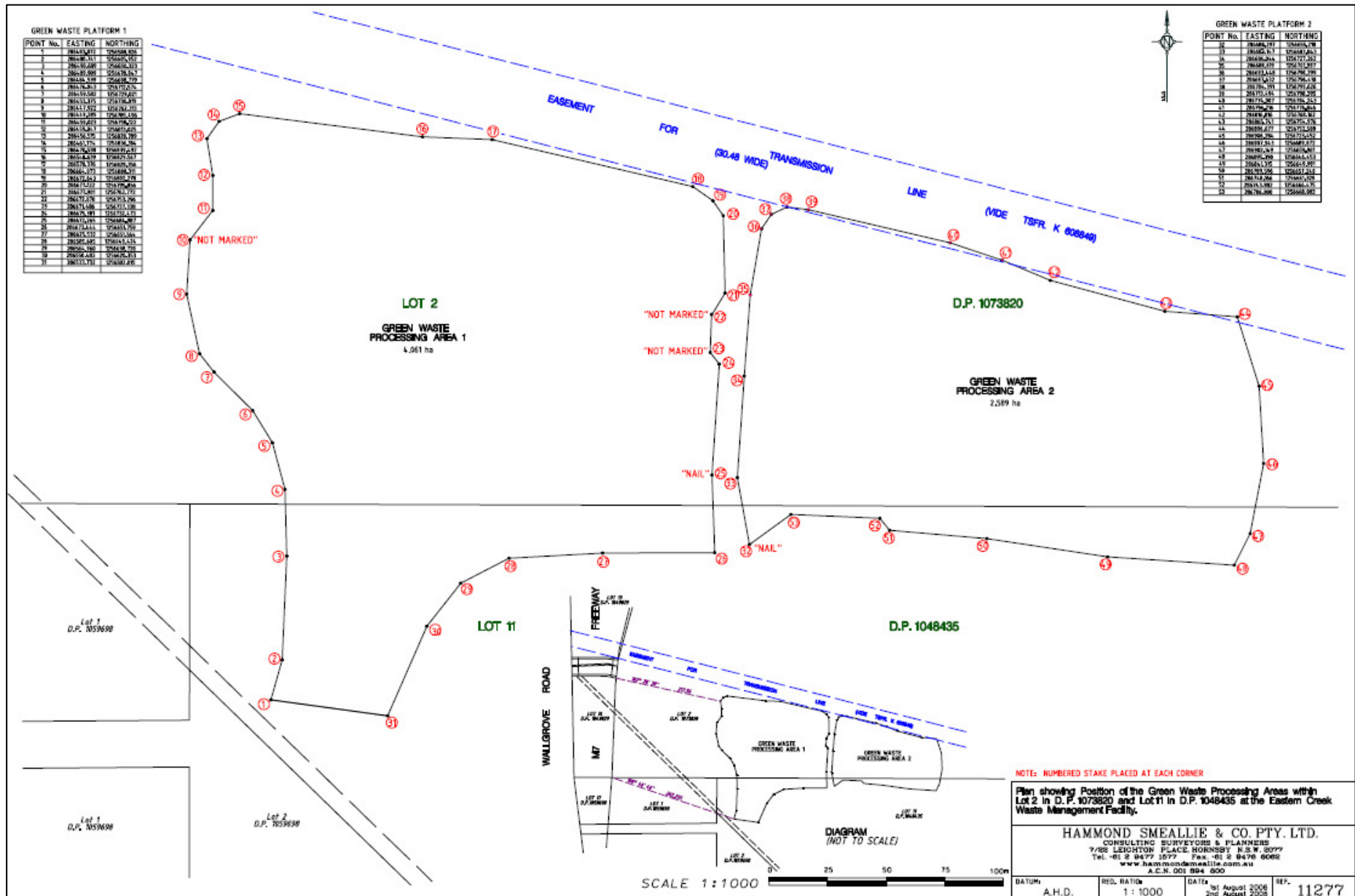


Figure 3: Site Survey of Greenwaste platforms)

### 3.0 CONSENT HISTORY

The following consent and modifications are of relevance to this application:

- Original Consent – Minister’s approval, S29/19 (2 June 1996), for development of a green waste processing facility.
- Modification to add a ‘Trial Aerated Static Pile Facility’ (S29/19-mod; 12 October 1997)
- Modification to expand the capacity of the existing green waste processing facility, including an increase in tonnages, upgrade works, replacement of administration buildings, establishment of vehicle parking and changes to stockpile configurations (MOD-94-9-2003i; 17 November 2004)
- Modification to modify the hours of operation of the green waste processing facility (MOD-53-6-2007i; 6 July 2007)

The **original consent (SEPP29/19, dated 2 June 1996)**, approved the development of a greenwaste processing facility, including:

- Construction of two platforms with sufficient area to accommodate receipt, shredding, composting, stockpiling and dispatching of greenwaste.
- Approval to handle up to 50,000 tonnes of greenwaste per year.
- Operations to initially occur on the western platform (with a site area of 3.5 hectares), with the eastern platform (site area of 2.2 hectares) earmarked for future expansion (refer Figure 4).

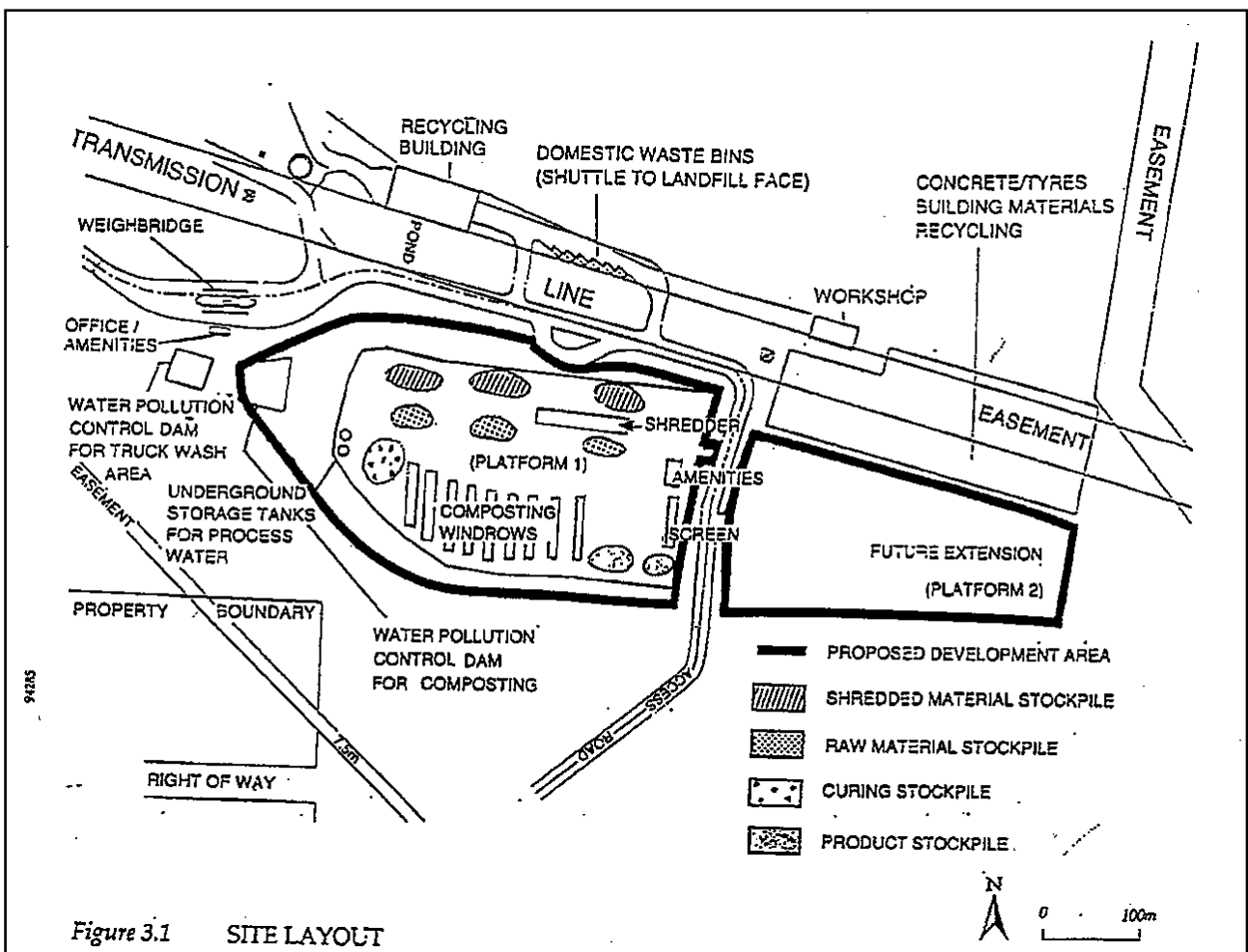


Figure 3.1 SITE LAYOUT

Figure 4: Site Layout as per consent no. S29/19 (2 June 1996)



Subsequently the site layout was altered via **MOD-94-9-2003i** (dated 17 November 2004). This modification approved the expansion of the greenwaste processing facility, including:

- An increase in accepted tonnages to 80,000 tonnes per annum;
- Major upgrade works which altered the site layout of the facility.
- A new portable building on the eastern platform (to replace the original administration building that was destroyed by fire in 2002).
- A vehicle parking and equipment maintenance area (on the western platform near the southern boundary of the site); and
- Changes to the stockpile configurations within the originally consented 5.7ha footprint (as illustrated below in Figures 5 and 6).

A copy of the site layout from the Statement of Environmental Effects, prepared by Mitchell McCotter for this modification is contained in Figures 5 and 6.

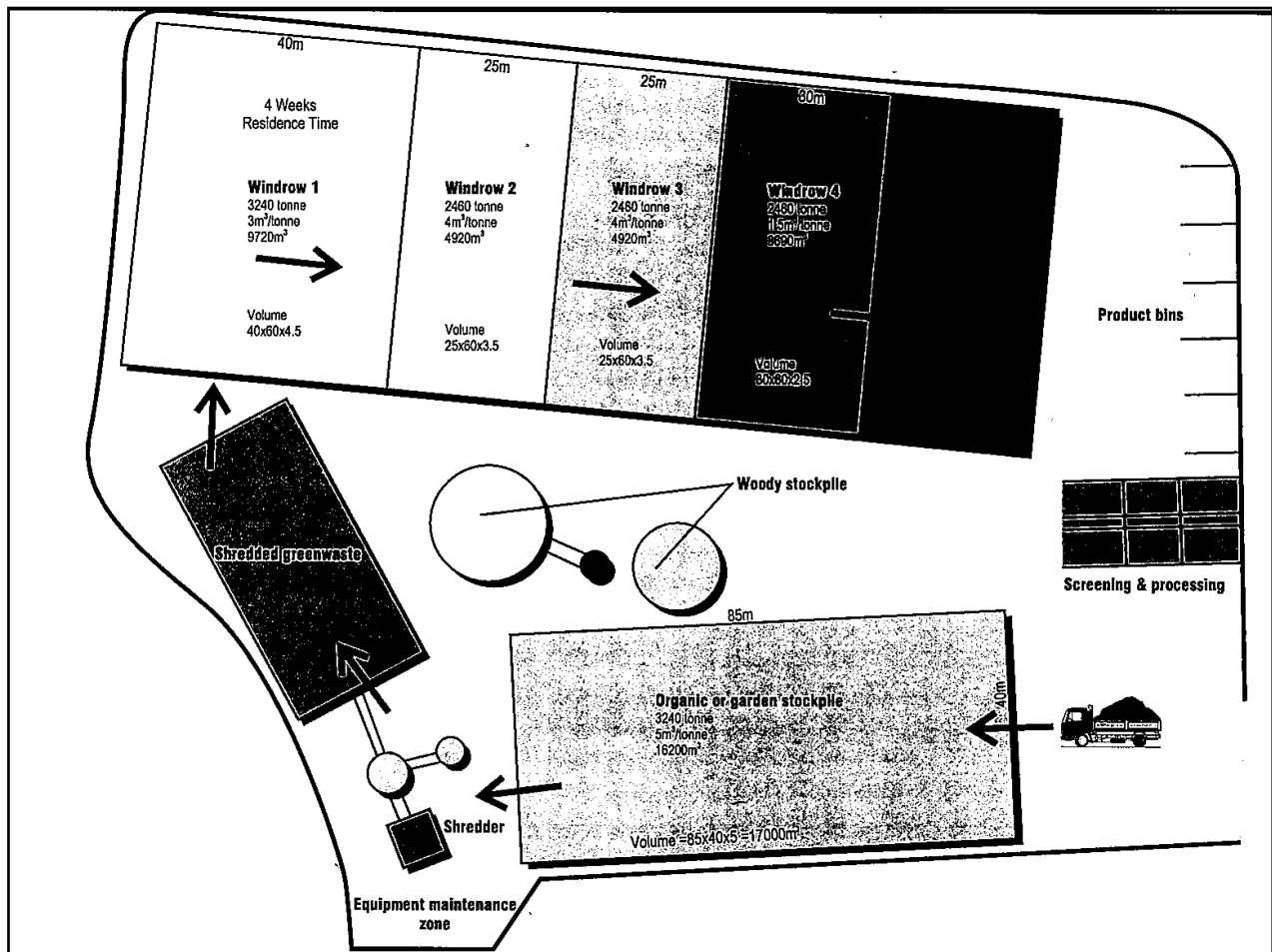


Figure 5: Western Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

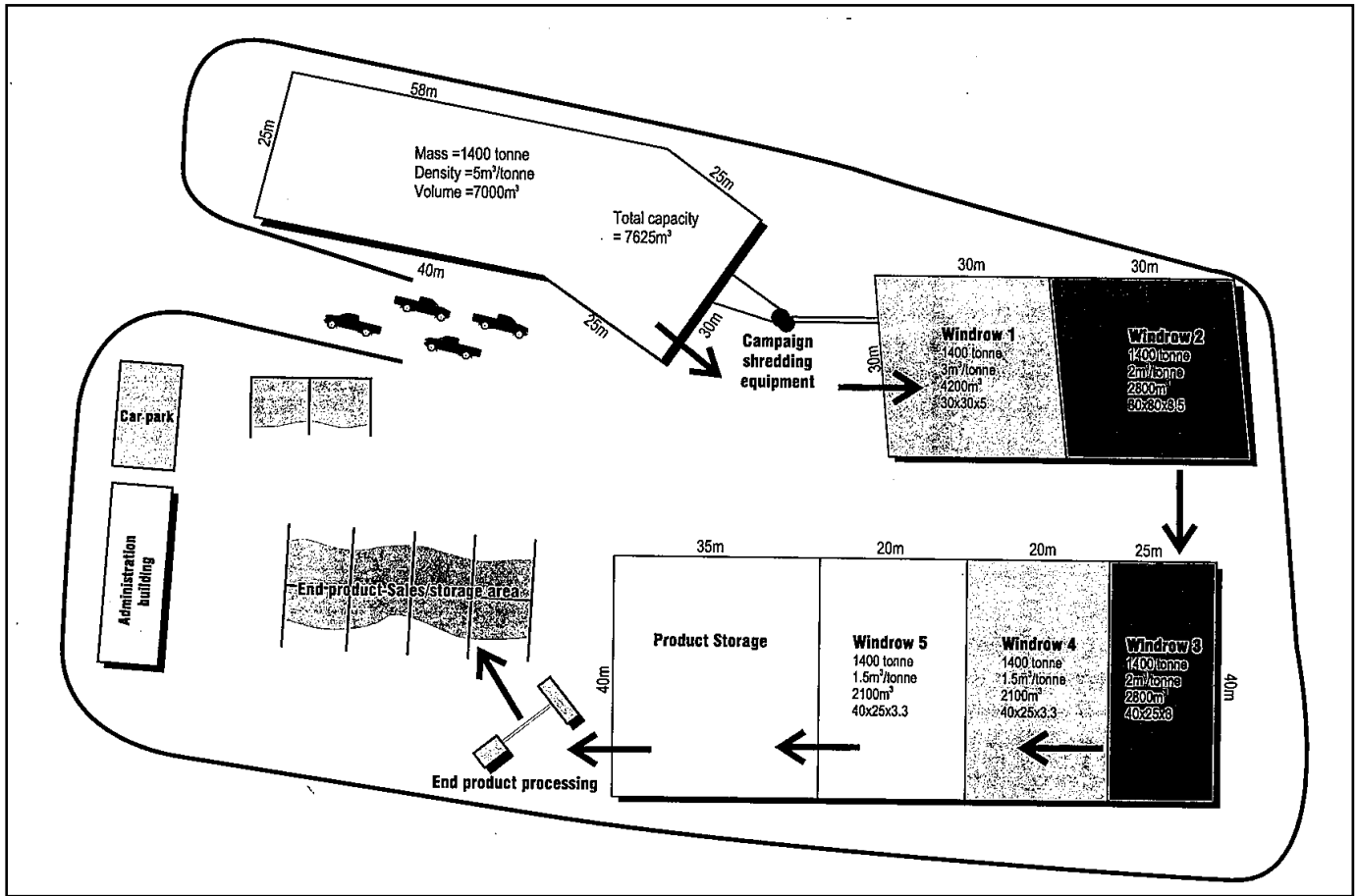


Figure 6: Eastern Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

#### 4.0 PROPOSED MODIFICATION

As approved the site occupies 5.7 hectares of closed former landfill area and consists of two platforms - the western platform (3.5 hectares) and the eastern platform (2.2 hectares), all within Lot 2 DP1073820.

The proposal seeks to modify Condition 4 of the original consent to allow for:

- the continued operation of the facility over a larger area beyond the 5.7 hectares consented by this condition (approval is sought for an extension of the area of the facility to the south onto Lot 11 DP 1048435, involving an addition of 0.95 hectares and resulting in a new total area of 6.65 hectares);
- an existing steel workshop building of dimensions 30m x 12m and 6m high on an extension to the western platform;
- sundry additional structures (an amenities building of dimensions 8.5m x 3m and 2.4m high, a refuelling bay and 3 4.4m diameter x 3m high water tanks); and
- Some minor encroachments of the eastern and western stockpile areas

The extended area will primarily encompass the unfilled land that previously formed a buffer between the approved greenwaste platform area and the Area 4 landfill. The new boundaries follow the natural landform, and are consistent with the contours that define the edge of the former Area 4 landfill

The proposal generally maintains the same layout and operations as previously approved in Modification No. MOD-94-9-2003i and as shown in figures 5 and 6. The

operations will be simply occurring on a slightly larger footprint than was originally approved.

The proposal will not result in any increase to production or input tonnages and no changes to current operations or management of the facility are proposed. The modified footprint will simply allow for more efficient operations to be carried out on site.

Figure 7 illustrates the existing approved area and the extension that is requested to be consented in this application.

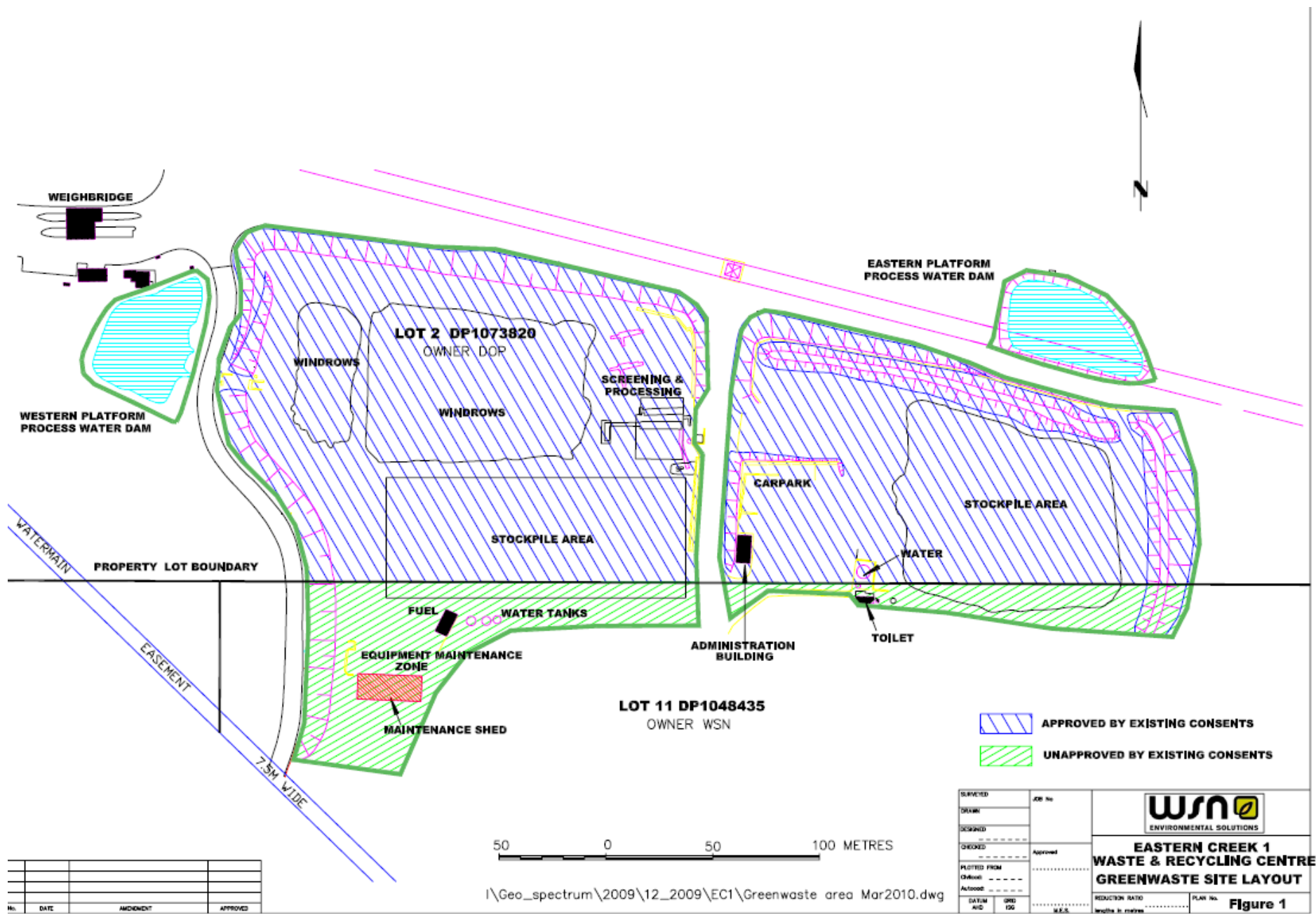


Figure 7: Existing approved area and proposed extension

## 5.0 JUSTIFICATION FOR THE PROPOSAL

In comparison with the existing consent regime, current operations at the Green Waste Processing facility are not materially changed by the modifications proposed in this application, notwithstanding that they occur over a marginally larger footprint than consented.

The marginal extension of the operational area of the facility has occurred on previously unused land that acted as a buffer to the landfill activities on the former Area 4 landfill (see Figure 1). When the Area 4 landfill was closed in 2002, the buffer became redundant and the use of the land for operational purposes became viable for the purposes of improving the efficiency of operations of the greenwaste facility. The land is unfilled, vacant and arguably of no value for other purposes within the current range of activities occurring on the greater Eastern Creek WRC site. For this reason, it is considered that extension of the greenwaste facility operations is an appropriate and acceptable use of the land.

In essence, the extended area supports activities that are adjunct to the operations of the greenwaste facility. These include:

- An equipment maintenance zone on the extension to the western platform, including the maintenance shed, vehicle manoeuvring area, refuelling facility and water tanks. This area is used exclusively for storage and maintenance of equipment used by the greenwaste facility (refer to photos 1 and 2).
- Minor portions of the western and eastern stockpiles; and
- The amenities block, also used exclusively by the greenwaste facility.

The extended configuration of the site is generally consistent with the currently approved site layout, (refer to figures 5, 6 and 7), arranged over a marginally extended site area the limits of which are essentially dictated by the finished contours of the Area 4 landfill, which forms a natural boundary to the new area.



*Photo 1: Maintenance Shed and Equipment Maintenance zone (Source: WSN)*



*Photo 2: Refuelling facility and water tanks (Source: WSN)*

Critically, the extension supports only facilities that were approved in the modified consent, located on stable, unfilled land that is suitable for construction and for heavy vehicular traffic. Moreover, the facility in its extended form receives no additional tonnage of processing materials over and above the current consent as modified.

Overall there will be no additional impact from the extension of the site area as the facility will generally maintain its current operational and management procedures.

When the above outcomes are taken into account in combination with the minimal environmental impacts identified in this Statement, it is considered that the proposed modification is justified.

## 6.0 PLANNING COMPLIANCE

This application has been prepared pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*. Section 96(2) permits the Consent Authority to modify a Consent after the consideration of the following:

1. Whether the modification will result in 'substantially the same development' as that originally approved; and
2. whether the development has acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

An assessment of the proposal under each of these points follows:

### 6.1 *Substantially the same development*

It is considered that the modification is substantially the same development as currently consented for the following reasons:

- the proposal is for the continued operation of the facility in the same manner as originally approved and the proposed increase in the site area and addition of the workshop shed will not alter the production capacity of the existing facility.
- the processes and management of the operations at the facility will remain the same as outlined in the original application for development consent as modified (consent No. s29/19 dated 2 June 1996 as modified on 17 November 2004 and 6 July 2007).
- The proposed modification is minor in nature and is not considered likely to result in any unacceptable environmental impacts.

#### 6.1.1 Extension of the development into another lot

The original consent applied to Lot Y in DP 376524, which became Lot 11 in DP 1049029 and subsequently Lot 2 in DP 107820, as it is currently known. An issue arises as to whether the consent applying to this lot can be modified to extend onto the allotment to the south (Lot 11 DP 1048435).

The following table provides a summary of the consents applying to the greenwaste facility and the relevant land descriptions.

Consent No.	Date	Consent for:	Lots in land description
S29/19	2 June 1996	Development of greenwaste facility	Lot Y DP376524
S29/19-mod	12 October 1997	Trial aerated static pile facility	n/a
Mod-94-9-2003i	17 November 2004	Expand capacity of facility. Including increase in tonnages, upgrade works, replacement of administration buildings, vehicle parking and changes to stockpile configuration	Lot 11 DP1049029 (formerly Lot Y DP376524) and Lot 11 DP1048435
Mod-53-3-2007i	6 July 2007	Modification to hours of operation	Lot 2 DP1073820 (formerly Lot11 DP1049029)

As noted in the table above the lot numbers as listed in the land description for the original consent and subsequent modifications vary. The lot where the increase in site area is proposed – Lot 11 DP1048435 – is listed in the modification consent for the expansion of the facilities capacity. In effect, therefore, the current consent as modified applies to both land parcels.

Notwithstanding this, the validity of the proposed extension being considered as a modification under section 96(2) is supported in a recent court appeal against the refusal of an application under section 96(2) to modify a development consent to expand the area of land used for the development approved by the consent [*Scrap Realty Pty Limited v Botany City Council* [2008] NSW LEC333 (19 Dec 2008)].

In this matter, the Court held that the consent authority has the power to modify a consent so that it applies to land additional to that to which the original consent applied provided that the consent authority is satisfied the modification will result in a development which is substantially the same as that which was originally consented.

The Commissioner commented that:

*As far as the condition precedent is concerned, the alteration is of “the development” – it expands the area on which development is carried out. There obviously will be questions of fact and degree in ascertaining whether the development before and after modification can be said to be substantially the same. Nevertheless, an expansion of the area on which development is carried out by adding land not the subject of the original consent is not inherently outside the concept of modification of the development under s.96. (Scrap Realty Pty Ltd v Botany City Council [2008] 19 LEC333)*

Given the conclusion of this assessment that the proposal will result in substantially the same development as currently approved, the extension of the facility onto the adjoining allotment is considered consistent with the legal precedent set by the Court and should not preclude approval of the modification.

## **6.2 Matters of consideration in Section 79C of the Act**

An assessment of the proposal against the relevant matters for consideration is contained below:

### **(a) the provisions of:**

#### **(i) any environmental planning instrument,**

- State Environmental Planning Policy (Western Sydney Parklands) 2009

This State Environmental Planning Policy (SEPP) applies to all lands within the Western Sydney Parklands, including the area of the Eastern Creek WRC. The aim of the Policy is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Sydney Parklands into a multi-use urban parkland for the region of Western Sydney.

Clause 9 of the Policy provides that land within the Parklands is unzoned. However clause 6(2) states that Part 3 of the *State Environmental Planning Policy (Infrastructure) 2007* applies to the Western Parklands as if it was in a prescribed zone under that policy.

Clause 11 of SEPP (Western Sydney Parklands) provides that the following development may be carried out without development consent but only if it is carried out by or on behalf of a public authority:



*“cafes; community facilities; entertainment facilities; environmental facilities; environmental protection works; function centres; information and education facilities; kiosks; landscaping; maintenance depots; public administration buildings; recreation areas; recreation facilities (outdoor); signage (for directional, informative, or interpretative purposes); ticketing facilities.”*

Other developments, excluding development for the purposes of residential accommodation may be carried out in the parklands only with development consent.

Clause 12 of the Policy sets out the matters to be generally considered by a consent authority in determining a development application for development on land in the Western Parklands.

- (a) the aim of this Policy, as set out in clause 2,*
- (b) the impact on drinking water catchments and associated infrastructure,*
- (c) the impact on utility services and easements,*
- (d) the impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities,*
- (e) the impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland,*
- (f) the impact on the Western Parkland’s linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use,*
- (g) the impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of western Sydney,*
- (h) the impact on public access to the Western Parklands,*
- (i) consistency with:*
  - (i) any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or*
  - (ii) any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part,*
- (j) the impact on surrounding residential amenity,*
- (k) the impact on significant views,*
- (l) the effect on drainage patterns, ground water, flood patterns and wetland viability,*
- (m) the impact on heritage items,*
- (n) the impact on traffic and parking.*

The greenwaste facility is an approved use on the site and the proposed modification will not alter the nature of operations and its management as previously approved. The inclusion of additional area to the facility and addition of the mechanical workshop shed will not impact on the development, operation and management of the Western Parklands and access to it.

There are no additional impacts to residential amenity, significant views, heritage items and traffic and parking.

Overall the proposal is not considered to hinder the aims of the Policy as it involves the physical extension of an existing approved facility within an area used for waste management purposes.

- State Environmental Planning Policy (Infrastructure) 2007

This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW.

Division 23 of the SEPP applies to waste or resource management facilities. The subject facility falls under the definition of resource recovery facility as follows:

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

In addition a ‘waste or resource management facility’ *means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.*

Clause 121(1) provides that development for the purpose of waste or resource management facilities, may be carried out by any person with consent on land in a prescribed zone. As noted above Clause (6) of the SEPP (Western Sydney Parklands) 2009, identifies the site as a prescribed zone.

However, as previously noted, the greenwaste facility is a previously approved use on the site and the proposed modification is not considered to significantly alter the approved use of the site. As such SEPP (Infrastructure) 2007 does not affect the proposal.

- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been modified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been differed indefinitely or has not been approved); and***

No such instrument applies to this proposal.

- (iii) any development control plan; and***

No development control plans apply to this proposal.

- (iv) any planning agreement that has been entered into under section 93F, to any draft planning agreement that a developer has offered to enter into under section 93F, and***

No planning agreement entered into under section 93F applies to the existing consent or the proposed modification.

- (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

The facility is classified as designated development under Clause 32 of Schedule 3 of the regulations. However Clause 35 of Schedule 3 states:

*Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent*

*authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.*

In this regard, this Statement indicates that the proposed modification will not significantly increase the environmental impacts of the total development and is therefore not designated development under the regulations.

Additionally the regulations make certain requirements with respect to applications for Modification of Consents under S.96(2) pertaining, in particular, to content of the application (s.115) and public participation in the assessment process (s.118). The application and its assessment will be consistent with these requirements.

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

The modification application is to extend the existing consent to allow a minor extension of the approved footprint and to incorporate various adjunct facilities including a maintenance zone (workshop shed, fuel supply area, water tanks and manoeuvring area and amenities block). The additional area extends onto previously unoccupied land to the south of the existing facility. The modification does not change the currently approved tonnages being processed by the facility.

The Statement of Environmental Effects (**SEE**), prepared by ERM (2003) for modification to expand the capacity of the existing green waste processing facility (MOD-94-9-2003i; 17 November 2004) assessed the impact of the proposal under the following headings:

- Land use
- Groundwater
- Drainage and Water Quality
- Air Quality
- Noise
- Flora and Fauna
- Visual Impacts
- Archaeology and heritage
- Traffic and Access
- Waste
- Hazardous Material
- Utilities and Services
- Public and Worker Safety
- Fire Safety
- Cumulative Impact

In order to illustrate the impacts of this Modification in comparison with the 2004 Consent, each of these matters is briefly discussed below.

- Land use

The proposed modification to extend the greenwaste platform as discussed in this statement is contained wholly within the Eastern Creek WRC. Operations of the facility are integrated with other waste management activities on the site and there will be no significant impact on surrounding land uses.

- Groundwater

The greenwaste platform (including the extension area subject of this modification) is covered with a low permeable shale/clay hardstand, effectively preventing any seepage of surface water into any underlying groundwater. Existing bores are used to monitor any changes in groundwater conditions and monitoring is undertaken in accordance with relevant Environmental Planning Licence (**EPL**) conditions.

- Drainage and Water Quality

The western platform continues to drain to the ANL dam, situated to the west of the platform whilst the eastern platform drains to the dam situated to the north-east of the eastern platform. There are no proposed changes to the drainage arrangements on site. The SEE concluded, following hydraulic analysis and modelling, that both dams could be expected to overflow less than once in 10years on average. Additionally water quality is monitored in accordance with the requirements of the EPL for the site.

- Air Quality

Air quality impacts were discussed in the SEE with respect to dust and odour. Dust minimising measures were noted in the SEE and ongoing monitoring of dust is carried out on site. Dust emissions would not change as a result of the proposal and impacts would remain acceptable.

An odour assessment was undertaken by PAEHolmes (formerly Holmes Air Sciences) to assess the potential impact of extending the site area of the existing greenwaste operation. A statement from PAEHolmes is contained in Appendix A.

The statement notes:

*“We understand that the modification would not result in any increase in input tonnage or production rate; therefore any increase in odour impacts is very unlikely. However as the source of odour is stockpiled greenwaste/composted material, it is possible that there could be an increase in the emitting surface area given that there is potential to spread the material out further. This is unlikely, given that the site operations would not change and the purpose of the expansion is to allow more efficient operation of the site which could be hindered by a significant increase in stockpile area.”*

As such, given that there will be no change to current operations on site, the proposed extension will not result in an increase in odour from the facility.

- Noise

The SEE demonstrated compliance with noise level restrictions applied by the EPL for the site. As noted above, there are no proposed changes to the current operation of the facility and as such there will be no additional noise impacts. Ongoing noise monitoring is carried out on site to ensure continued compliance with noise limits.

- Flora and Fauna

The proposed extension will not have any affect on flora and fauna as the extended area utilises an existing cleared area.

- Visual Impacts

There will be no additional visual impacts on the surrounding area as the proposed extension will be located within the existing waste management facility and cannot be viewed from outside the Eastern Creek WRC.

Additionally there is existing planting along the eastern, western and southern boundaries that provides additional screening and improves the overall appearance of the site.

- Archaeology and Heritage

The SEE stated that there are no heritage listed items or known items of archaeological significance on or near the site.

- Traffic and Access

As the modification does not change the existing operations and management of the facility, there will be no increase in traffic accessing the site. Also, there are no changes to existing access arrangements onsite.

- Waste

Given that there are no proposed changes to the operations on site, the handling of any wastes will remain unchanged. As noted in the SEE, the only wastes onsite relate to contaminants in the greenwaste. These wastes are removed from the green waste prior to processing and are recycled or disposed of to landfill as appropriate.

- Hazardous Material

The handling of any potential hazardous wastes remains unchanged on site. Any Hazardous wastes brought to the site are separated and disposed of to a premises licensed to accept hazardous materials.

- Utilities and Services

The amenities building is serviced by a bio-septic system. The site is connected to reticulated water and electricity is supplied via existing services to the WRC.

- Public and Worker Safety

The facility has a Site Safety Management Plan and System in place; Environmental risk assessment, including OH & S assessment conducted in accordance with the site's EMP. Additionally, site workers are inducted to the site and trained accordingly.

- Fire Safety

There will be no change to current fire management practises on site. Fire management practices are outlined in the facility's Fire Management Plant. Fire fighting equipment is accessible on site and site staff are trained to manage any fire outbreaks.

- Cumulative Impact

Operation of the current facilities creates positive cumulative impacts at social, economic and environmental levels. The proposed amendments will have no negative impacts and will contribute to these existing positive impacts.

**(c) *The suitability of the site for the development;***

The greenwaste facility has been operating on the site since it was approved in 1996. The additional area that is the subject of this application extends onto previously unused land to the south of the existing facility. The proposed modification is to alter the footprint of the facility and include a mechanical workshop shed. It will not change the nature or intensity of the operations of the facility. The workshop shed, which is necessary for the operations of the facility, is built on the extended site as it provides a stable building platform on unfilled land in preference to the currently approved area which incorporates only filled land which may be unsuitable for building construction. On this basis it is considered that the site will remain suitable for the development as modified.

**(d) *Any submissions made in accordance with this Act or the regulations;***

Submissions made to the notification of the proposed modification will be considered by the applicant and the proposal will be amended if required prior to final consideration by the Minister.

**(e) *The public interest***

The facility receives and processes greenwastes from local council areas, from other WSN transfer stations and from commercial contractors into quality compost products. As noted above there will be no change to the management and operation of the facility. The facility will continue to service the green waste recycling needs of the area.

The proposed modification will allow for more efficient operations to be carried out on site and allow the facility to better service the needs of the public in this respect with no impacts to the amenity of the locality.

The overall outcome of this assessment is that the proposed modification is considered to have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act

## **7.0 CONCLUSIONS**

The proposed extension of the greenwaste facility is required to allow for more efficient operations to occur on site. In addition the extension includes a workshop building that could not be located within the approved footprint of the site given the hazards of such construction on filled land.

The proposal is to modify the Ministers Consent 29/19 dated 2 June 1996 (as modified on 17 November 2004 and 6 July 2007) by addition of the workshop building and by modifying Condition 4 to allow extension onto the adjoining allotment over a total additional site area of 0.95 hectares.

This assessment has indicated that the proposed modification is consistent with the requirements of S.96(2) of the *Environmental Planning and Assessment Act 1979* in that:

- The modification will result in 'substantially the same development' as that originally approved; and
- The development will have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

Given the minor nature of the proposal and that there is not considered to be any additional impacts or changes to current operations on site, the proposed modification is considered substantiated.

**APPENDIX A: ODOUR IMPACT STATEMENT**





## **EASTERN CREEK WASTE AND RECYCLING CENTRE**

**APPLICATION UNDER S.96(2) OF THE *ENVIRONMENTAL  
PLANNING AND ASSESSMENT ACT 1979* TO MODIFY THE  
MINISTERS CONSENT NO. S29/19 (2 JULY 1996):**

**WORKSHOP BUILDING AND EXTENSION OF GREEN WASTE  
PLATFORM AREA**

***STATEMENT OF ENVIRONMENTAL EFFECTS***

**26 March 2010**

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## 1.0 INTRODUCTION

WSN Environmental Solutions (**WSN**) operates the Eastern Creek Waste & Recycling Centre (**WRC**) located off Wallgrove Road, Eastern Creek on land partially owned by Department of Planning (**the Department**) and partially owned by WSN. As consented, the Eastern Creek Green Waste Facility (**the facility**) operates within the greater Eastern Creek site on Lot 2, DP 1073820. This lot incorporates land leased from the Department and sub-leased by WSN to Australian Native Landscapes (**ANL**) the operator of the facility. In its current configuration, the facility also occurs partially on Lot 11, DP 1048435, land in the ownership of WSN.

The Facility operates under the Minister's development consent no. SEPP29/19 dated 2 July 1996 as modified on 12 October 1997, 17 November 2004 and 6 July 2007.

Condition 4 of this consent reads:

*"The facility is to be restricted to the designated 3.5 hectare site in the first stage and the final stage of the development involving a second additional 2.2 hectare site, as per the plans contained in the Eastern Creek Waste Processing Facility EIS, July 1995. Any further expansion of the development site will require separate development consent."*

The footprint of the facility has extended beyond its originally approved 5.7 ha limit and now covers a total area of 6.65 hectares. The extended area supports a workshop shed, a refuelling bay, water tanks and minor encroachments of existing stockpiles. This application seeks to modify Consent S29/19 under S.96(2) of the *Environmental Planning and Assessment Act, 1979 (the Act)* to provide for extension of the greenwaste facility footprint and to allow the operations that are not subject to the existing consents.

## 2.0 SITE PARTICULARS (Figures 1 & 2)

The Eastern Creek WRC is located on part of Lot 1 and 2 DP1073820, Lot 11 DP1048435, Lot 2 DP1059698 and Lot 12 DP1049029 off Wallgrove Road, Eastern Creek. Lot 11 DP1048435 and Lot 2 DP1059698 in the south is owned by WSN, while the remainder of the site is leased from the NSW Department of Planning (refer Figure 1).

The Eastern Creek WRC is located off Wallgrove Road, Eastern Creek, within the Blacktown Local Government Area (LGA).

Completed landfill Areas 1 to 4, are located on the western side of Eastern Creek WRC within the area known as Eastern Creek 1. Eastern Creek 2 landfill is divided into areas referred to as the 'Southern Cells' and the 'Northern Cells' (cells 4, 6 and 7). Landfilling operations are now complete at the Southern Cells, with rehabilitation works currently planned. Landfill operations are currently carried out at the 'Northern Cells'.

In addition WSN also operates a leachate treatment plant, subleases to Energy Developments Ltd (**EDL**) who operate a landfill to gas power plant situated at the Wallgrove Road entrance to the site and also operates their own landfill gas power plant in conjunction with Landfill Management Services Pty (**LMS**). Figure 2 shows an aerial view of the facilities at the site and surrounds.

The Green Waste Processing Facility is located within the area known as Eastern Creek 1. Under the current consent it operates on Lot 2, DP 1073820. A survey of the Green Waste Processing Facility is contained in Figure 3.

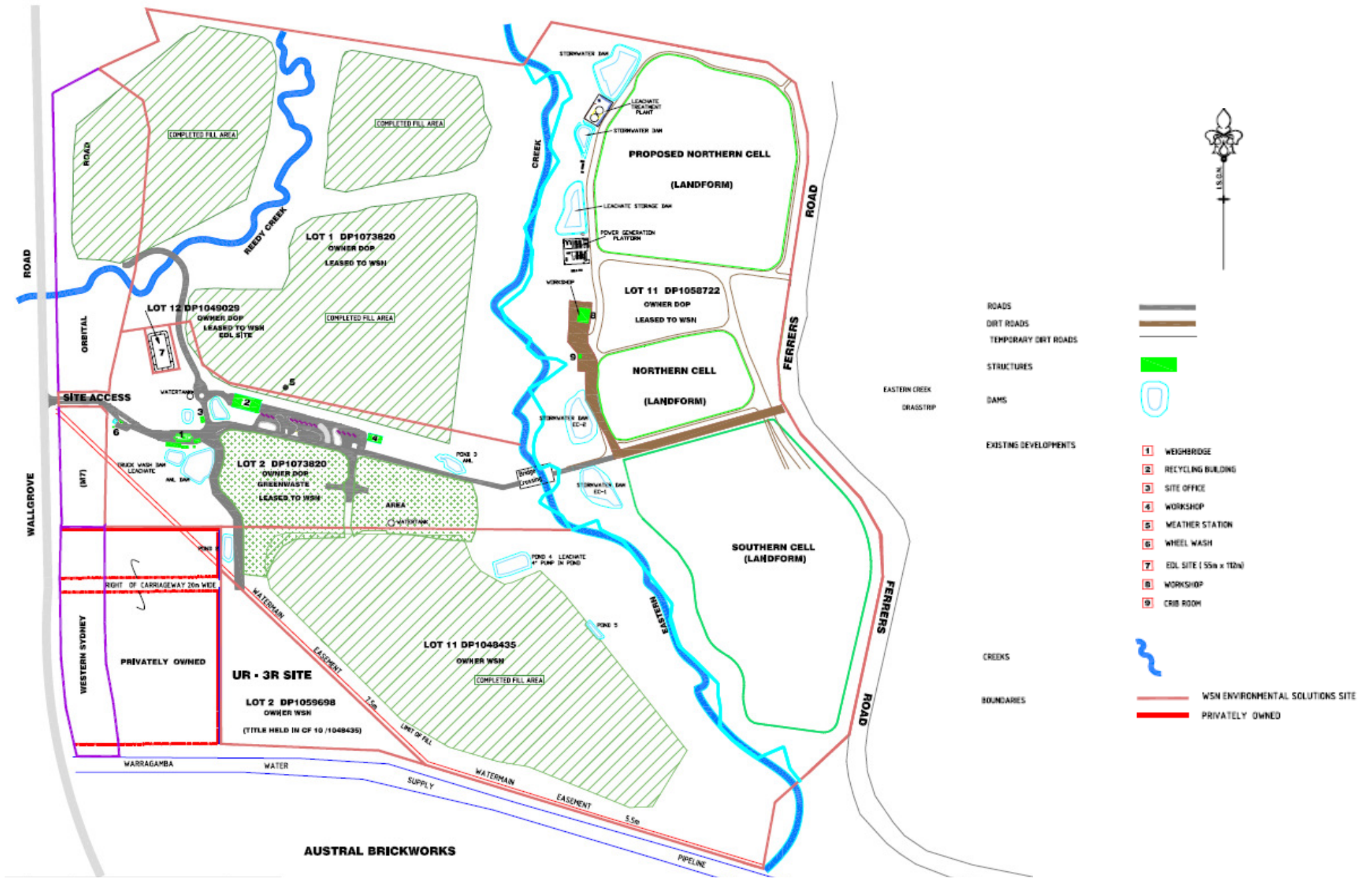


Figure 1: Site Plan and Cadastral information (Subject Site stippled green)  
Page 4

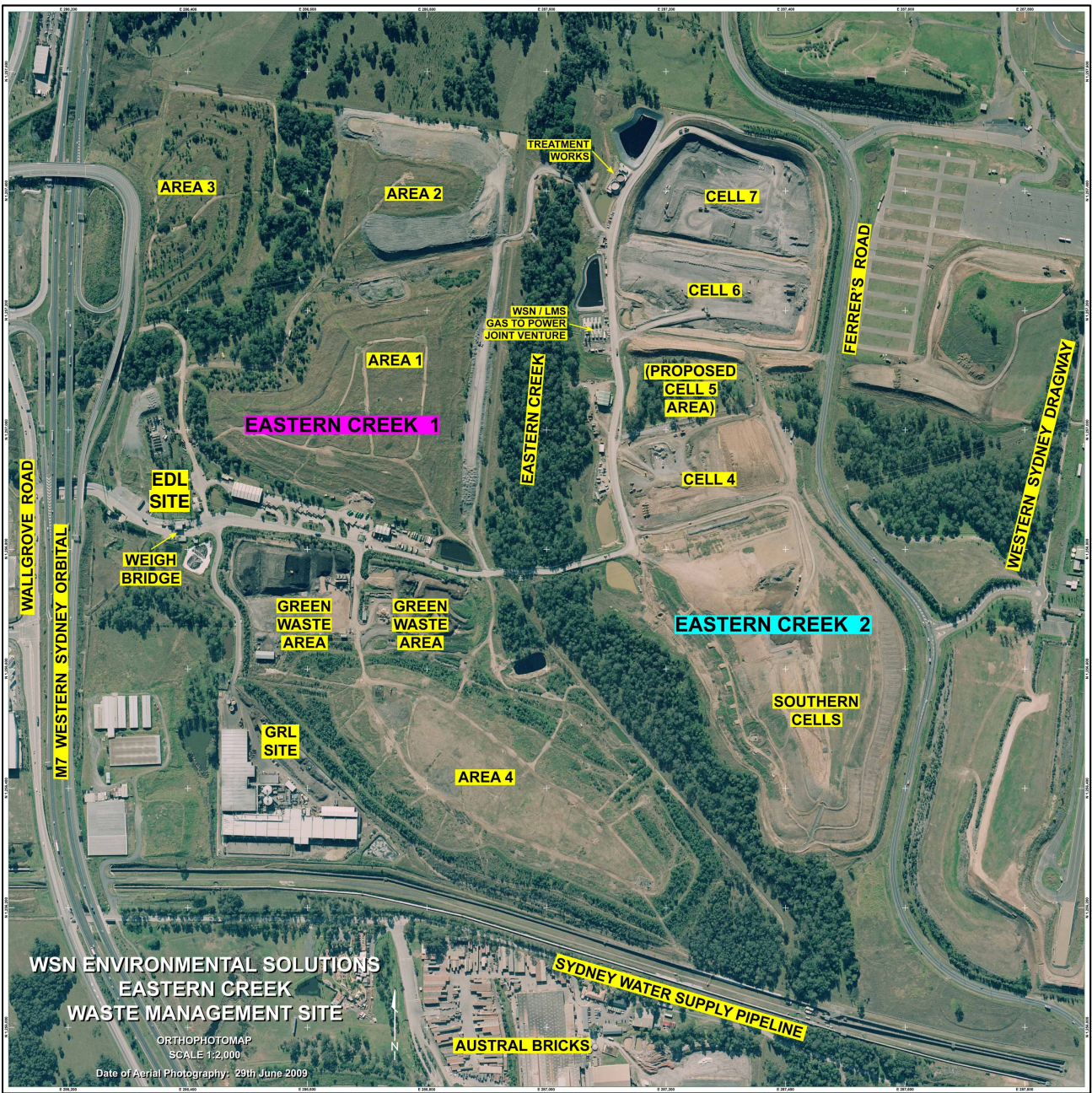


Figure 2: Eastern Creek Site Plan and Surrounds

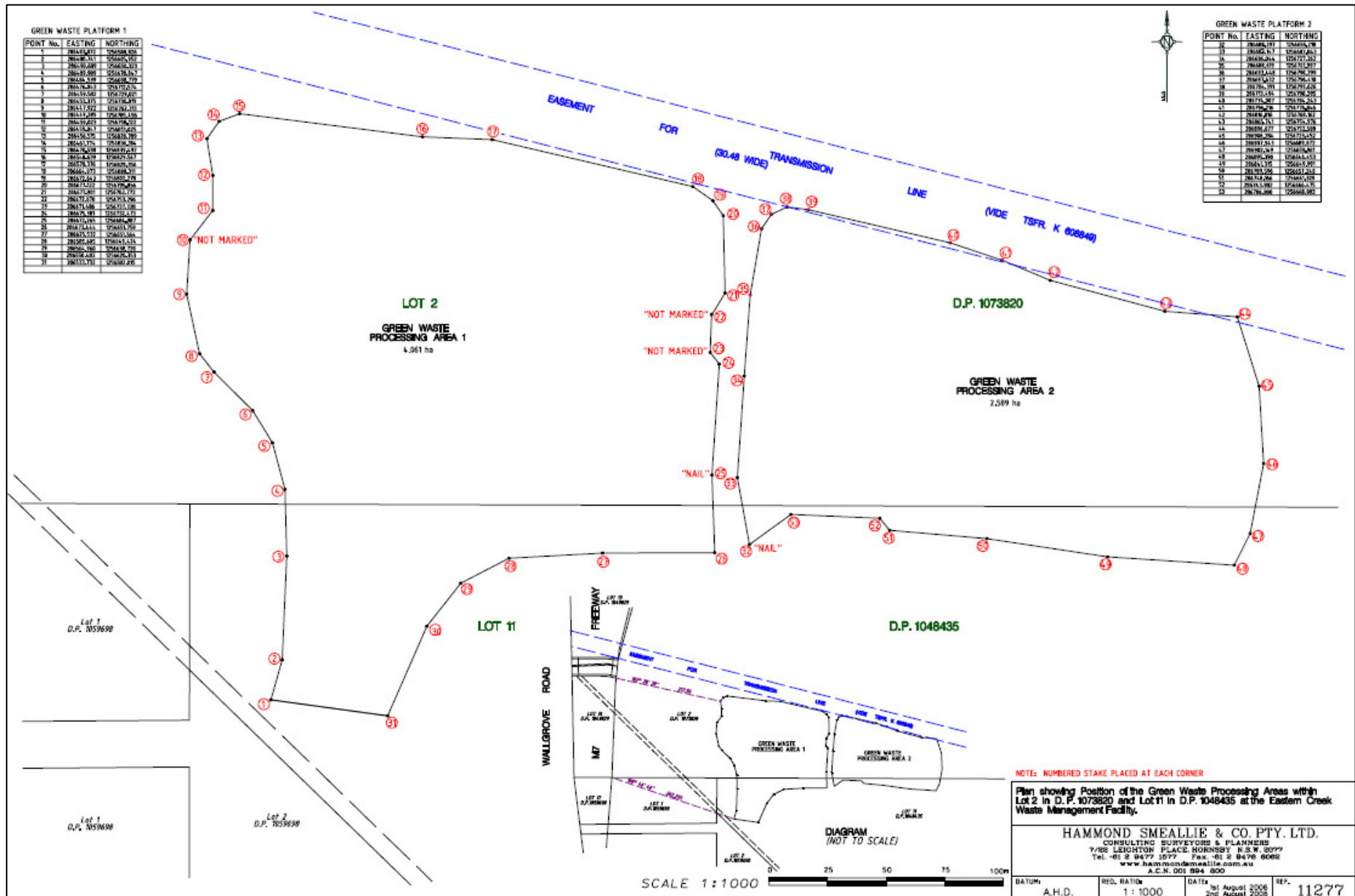


Figure 3: Site Survey of Greenwaste platforms)

### 3.0 CONSENT HISTORY

The following consent and modifications are of relevance to this application:

- Original Consent – Minister’s approval, S29/19 (2 June 1996), for development of a green waste processing facility.
- Modification to add a ‘Trial Aerated Static Pile Facility’ (S29/19-mod; 12 October 1997)
- Modification to expand the capacity of the existing green waste processing facility, including an increase in tonnages, upgrade works, replacement of administration buildings, establishment of vehicle parking and changes to stockpile configurations (MOD-94-9-2003i; 17 November 2004)
- Modification to modify the hours of operation of the green waste processing facility (MOD-53-6-2007i; 6 July 2007)

The **original consent (SEPP29/19, dated 2 June 1996)**, approved the development of a greenwaste processing facility, including:

- Construction of two platforms with sufficient area to accommodate receipt, shredding, composting, stockpiling and dispatching of greenwaste.
- Approval to handle up to 50,000 tonnes of greenwaste per year.
- Operations to initially occur on the western platform (with a site area of 3.5 hectares), with the eastern platform (site area of 2.2 hectares) earmarked for future expansion (refer Figure 4).

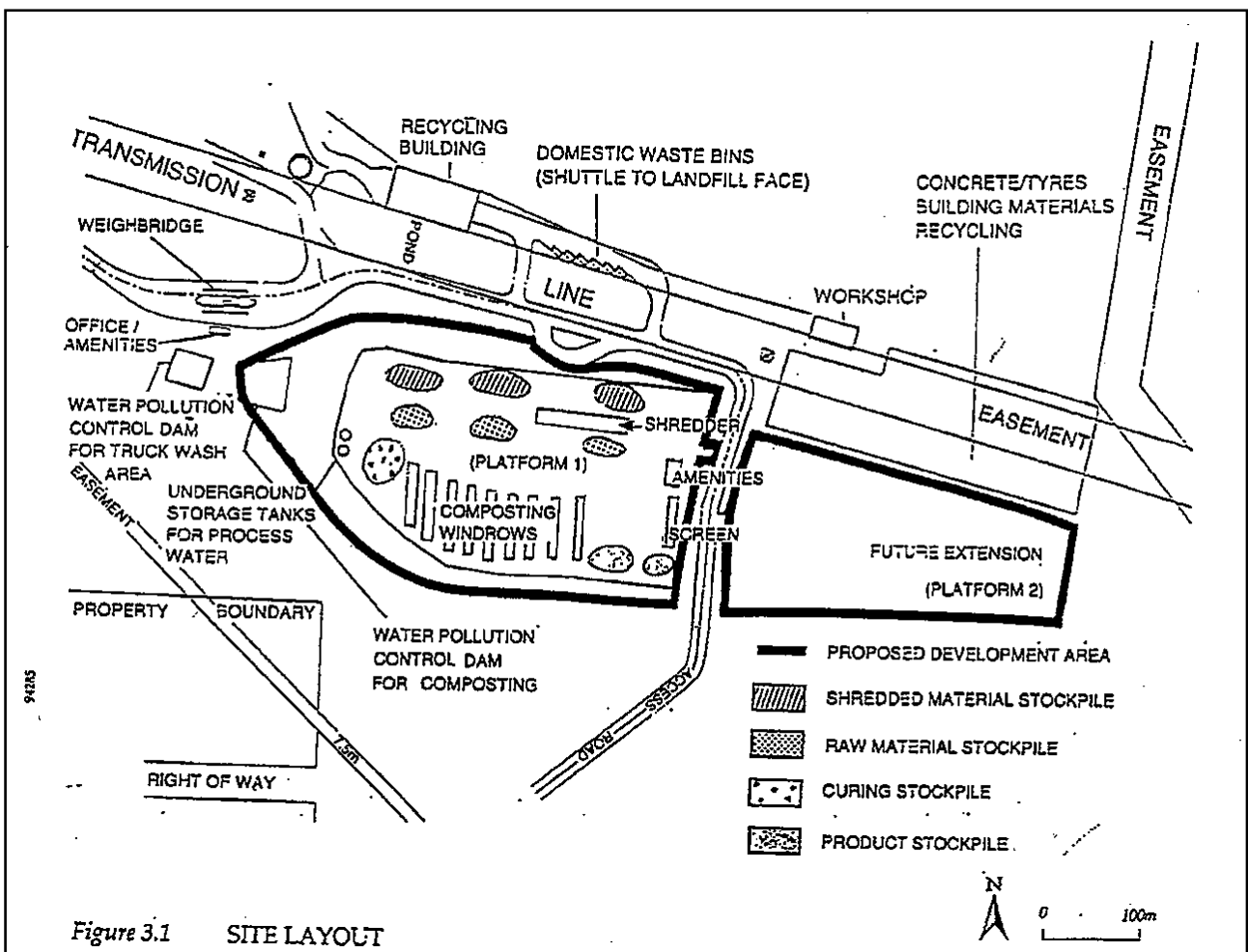


Figure 4: Site Layout as per consent no. S29/19 (2 June 1996)

Subsequently the site layout was altered via **MOD-94-9-2003i** (dated 17 November 2004). This modification approved the expansion of the greenwaste processing facility, including:

- An increase in accepted tonnages to 80,000 tonnes per annum;
- Major upgrade works which altered the site layout of the facility.
- A new portable building on the eastern platform (to replace the original administration building that was destroyed by fire in 2002).
- A vehicle parking and equipment maintenance area (on the western platform near the southern boundary of the site); and
- Changes to the stockpile configurations within the originally consented 5.7ha footprint (as illustrated below in Figures 5 and 6).

A copy of the site layout from the Statement of Environmental Effects, prepared by Mitchell McCotter for this modification is contained in Figures 5 and 6.

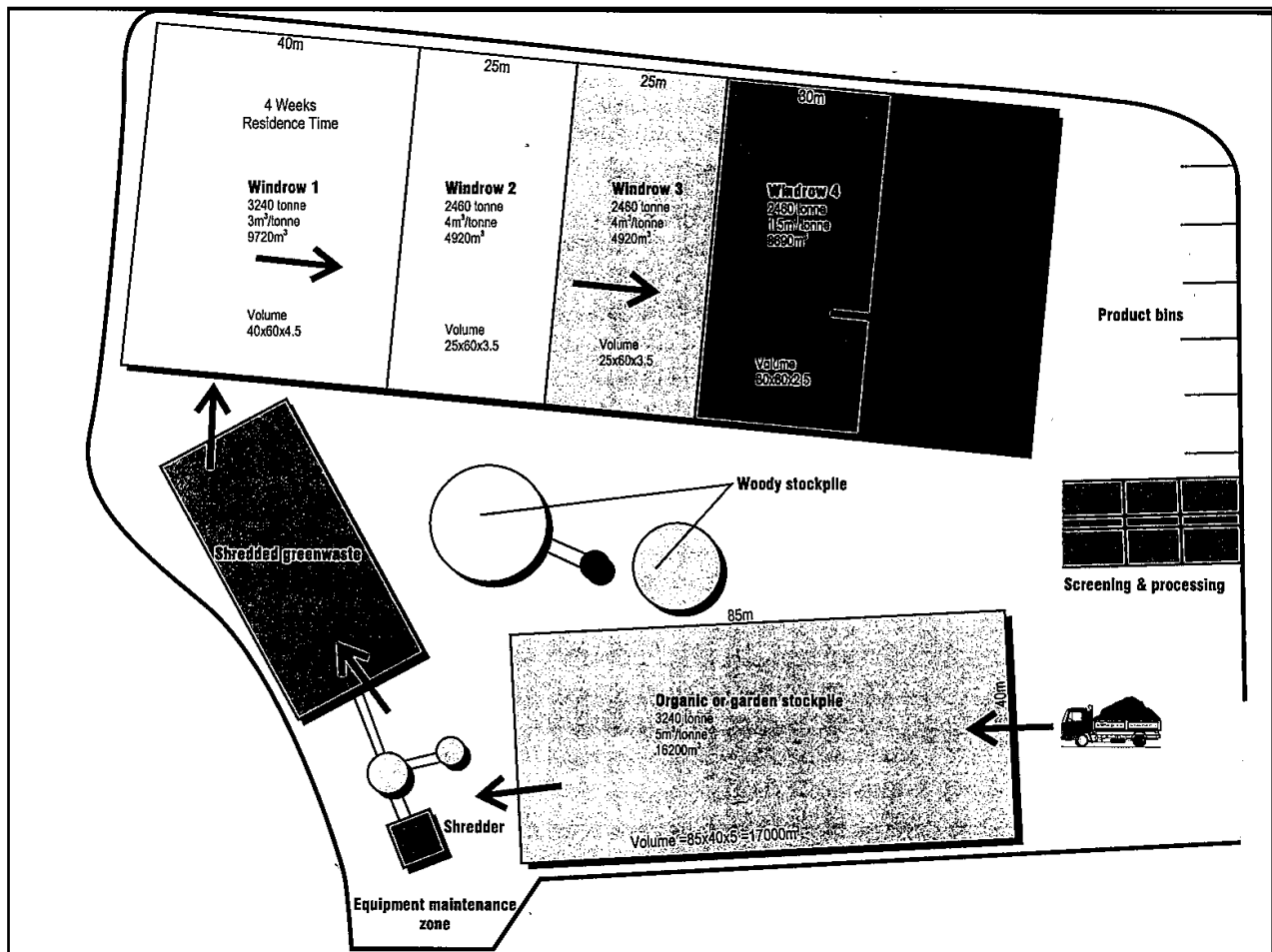


Figure 5: Western Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)



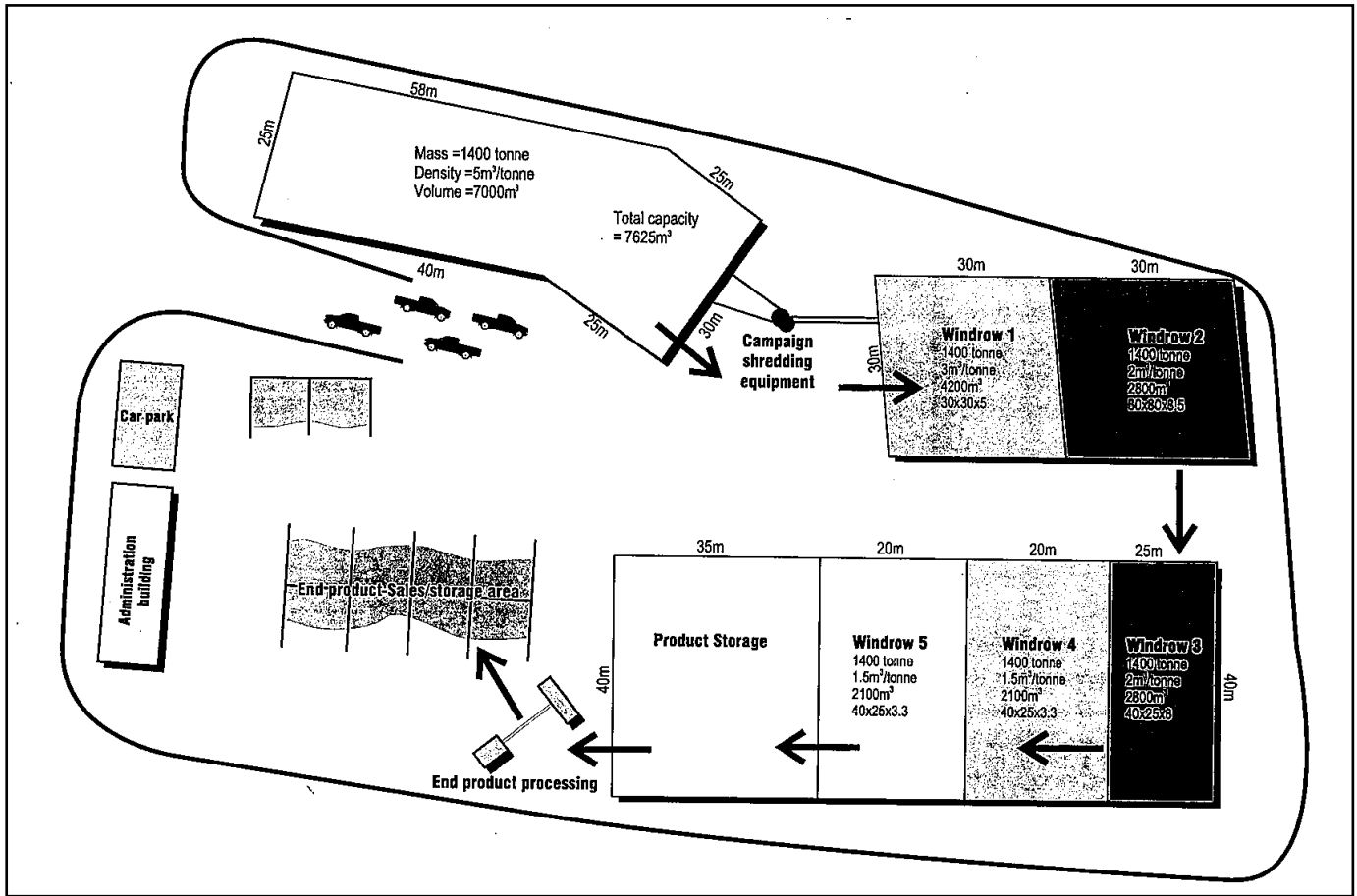


Figure 6: Eastern Platform layout; Consent no. MOD-94-9-2003i (17 November 2004)

#### 4.0 PROPOSED MODIFICATION

As approved the site occupies 5.7 hectares of closed former landfill area and consists of two platforms - the western platform (3.5 hectares) and the eastern platform (2.2 hectares), all within Lot 2 DP1073820.

The proposal seeks to modify Condition 4 of the original consent to allow for:

- the continued operation of the facility over a larger area beyond the 5.7 hectares consented by this condition (approval is sought for an extension of the area of the facility to the south onto Lot 11 DP 1048435, involving an addition of 0.95 hectares and resulting in a new total area of 6.65 hectares);
- an existing steel workshop building of dimensions 30m x 12m and 6m high on an extension to the western platform;
- sundry additional structures (an amenities building of dimensions 8.5m x 3m and 2.4m high, a refuelling bay and 3 4.4m diameter x 3m high water tanks); and
- Some minor encroachments of the eastern and western stockpile areas

The extended area will primarily encompass the unfilled land that previously formed a buffer between the approved greenwaste platform area and the Area 4 landfill. The new boundaries follow the natural landform, and are consistent with the contours that define the edge of the former Area 4 landfill

The proposal generally maintains the same layout and operations as previously approved in Modification No. MOD-94-9-2003i and as shown in figures 5 and 6. The

operations will be simply occurring on a slightly larger footprint than was originally approved.

The proposal will not result in any increase to production or input tonnages and no changes to current operations or management of the facility are proposed. The modified footprint will simply allow for more efficient operations to be carried out on site.

Figure 7 illustrates the existing approved area and the extension that is requested to be consented in this application.

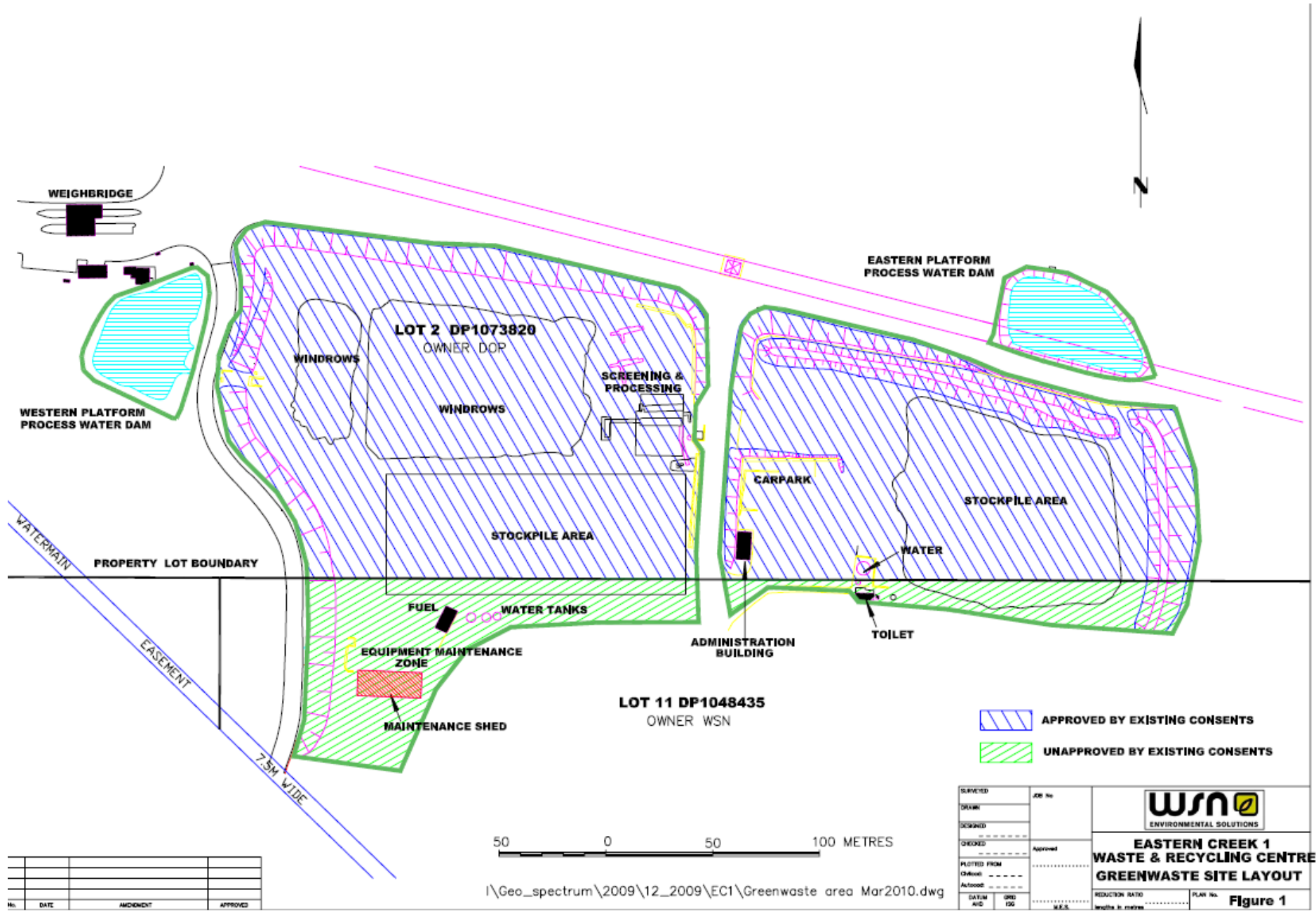


Figure 7: Existing approved area and proposed extension

## 5.0 JUSTIFICATION FOR THE PROPOSAL

In comparison with the existing consent regime, current operations at the Green Waste Processing facility are not materially changed by the modifications proposed in this application, notwithstanding that they occur over a marginally larger footprint than consented.

The marginal extension of the operational area of the facility has occurred on previously unused land that acted as a buffer to the landfill activities on the former Area 4 landfill (see Figure 1). When the Area 4 landfill was closed in 2002, the buffer became redundant and the use of the land for operational purposes became viable for the purposes of improving the efficiency of operations of the greenwaste facility. The land is unfilled, vacant and arguably of no value for other purposes within the current range of activities occurring on the greater Eastern Creek WRC site. For this reason, it is considered that extension of the greenwaste facility operations is an appropriate and acceptable use of the land.

In essence, the extended area supports activities that are adjunct to the operations of the greenwaste facility. These include:

- An equipment maintenance zone on the extension to the western platform, including the maintenance shed, vehicle manoeuvring area, refuelling facility and water tanks. This area is used exclusively for storage and maintenance of equipment used by the greenwaste facility (refer to photos 1 and 2).
- Minor portions of the western and eastern stockpiles; and
- The amenities block, also used exclusively by the greenwaste facility.

The extended configuration of the site is generally consistent with the currently approved site layout, (refer to figures 5, 6 and 7), arranged over a marginally extended site area the limits of which are essentially dictated by the finished contours of the Area 4 landfill, which forms a natural boundary to the new area.



*Photo 1: Maintenance Shed and Equipment Maintenance zone (Source: WSN)*



*Photo 2: Refuelling facility and water tanks (Source: WSN)*

Critically, the extension supports only facilities that were approved in the modified consent, located on stable, unfilled land that is suitable for construction and for heavy vehicular traffic. Moreover, the facility in its extended form receives no additional tonnage of processing materials over and above the current consent as modified.

Overall there will be no additional impact from the extension of the site area as the facility will generally maintain its current operational and management procedures.

When the above outcomes are taken into account in combination with the minimal environmental impacts identified in this Statement, it is considered that the proposed modification is justified.

## 6.0 PLANNING COMPLIANCE

This application has been prepared pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*. Section 96(2) permits the Consent Authority to modify a Consent after the consideration of the following:

1. Whether the modification will result in 'substantially the same development' as that originally approved; and
2. whether the development has acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

An assessment of the proposal under each of these points follows:

### 6.1 *Substantially the same development*

It is considered that the modification is substantially the same development as currently consented for the following reasons:

- the proposal is for the continued operation of the facility in the same manner as originally approved and the proposed increase in the site area and addition of the workshop shed will not alter the production capacity of the existing facility.
- the processes and management of the operations at the facility will remain the same as outlined in the original application for development consent as modified (consent No. s29/19 dated 2 June 1996 as modified on 17 November 2004 and 6 July 2007).
- The proposed modification is minor in nature and is not considered likely to result in any unacceptable environmental impacts.

#### 6.1.1 Extension of the development into another lot

The original consent applied to Lot Y in DP 376524, which became Lot 11 in DP 1049029 and subsequently Lot 2 in DP 107820, as it is currently known. An issue arises as to whether the consent applying to this lot can be modified to extend onto the allotment to the south (Lot 11 DP 1048435).

The following table provides a summary of the consents applying to the greenwaste facility and the relevant land descriptions.

Consent No.	Date	Consent for:	Lots in land description
S29/19	2 June 1996	Development of greenwaste facility	Lot Y DP376524
S29/19-mod	12 October 1997	Trial aerated static pile facility	n/a
Mod-94-9-2003i	17 November 2004	Expand capacity of facility. Including increase in tonnages, upgrade works, replacement of administration buildings, vehicle parking and changes to stockpile configuration	Lot 11 DP1049029 (formerly Lot Y DP376524) and Lot 11 DP1048435
Mod-53-3-2007i	6 July 2007	Modification to hours of operation	Lot 2 DP1073820 (formerly Lot11 DP1049029)

As noted in the table above the lot numbers as listed in the land description for the original consent and subsequent modifications vary. The lot where the increase in site area is proposed – Lot 11 DP1048435 – is listed in the modification consent for the expansion of the facilities capacity. In effect, therefore, the current consent as modified applies to both land parcels.

Notwithstanding this, the validity of the proposed extension being considered as a modification under section 96(2) is supported in a recent court appeal against the refusal of an application under section 96(2) to modify a development consent to expand the area of land used for the development approved by the consent [*Scrap Realty Pty Limited v Botany City Council* [2008] NSW LEC333 (19 Dec 2008)].

In this matter, the Court held that the consent authority has the power to modify a consent so that it applies to land additional to that to which the original consent applied provided that the consent authority is satisfied the modification will result in a development which is substantially the same as that which was originally consented.

The Commissioner commented that:

*As far as the condition precedent is concerned, the alteration is of “the development” – it expands the area on which development is carried out. There obviously will be questions of fact and degree in ascertaining whether the development before and after modification can be said to be substantially the same. Nevertheless, an expansion of the area on which development is carried out by adding land not the subject of the original consent is not inherently outside the concept of modification of the development under s.96. (Scrap Realty Pty Ltd v Botany City Council [2008] 19 LEC333)*

Given the conclusion of this assessment that the proposal will result in substantially the same development as currently approved, the extension of the facility onto the adjoining allotment is considered consistent with the legal precedent set by the Court and should not preclude approval of the modification.

## **6.2 Matters of consideration in Section 79C of the Act**

An assessment of the proposal against the relevant matters for consideration is contained below:

### **(a) the provisions of:**

#### **(i) any environmental planning instrument,**

- State Environmental Planning Policy (Western Sydney Parklands) 2009

This State Environmental Planning Policy (SEPP) applies to all lands within the Western Sydney Parklands, including the area of the Eastern Creek WRC. The aim of the Policy is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Sydney Parklands into a multi-use urban parkland for the region of Western Sydney.

Clause 9 of the Policy provides that land within the Parklands is unzoned. However clause 6(2) states that Part 3 of the *State Environmental Planning Policy (Infrastructure) 2007* applies to the Western Parklands as if it was in a prescribed zone under that policy.

Clause 11 of SEPP (Western Sydney Parklands) provides that the following development may be carried out without development consent but only if it is carried out by or on behalf of a public authority:

*“cafes; community facilities; entertainment facilities; environmental facilities; environmental protection works; function centres; information and education facilities; kiosks; landscaping; maintenance depots; public administration buildings; recreation areas; recreation facilities (outdoor); signage (for directional, informative, or interpretative purposes); ticketing facilities.”*

Other developments, excluding development for the purposes of residential accommodation may be carried out in the parklands only with development consent.

Clause 12 of the Policy sets out the matters to be generally considered by a consent authority in determining a development application for development on land in the Western Parklands.

- (a) the aim of this Policy, as set out in clause 2,*
- (b) the impact on drinking water catchments and associated infrastructure,*
- (c) the impact on utility services and easements,*
- (d) the impact of carrying out the development on environmental conservation areas and the natural environment, including endangered ecological communities,*
- (e) the impact on the continuity of the Western Parklands as a corridor linking core habitat such as the endangered Cumberland Plain Woodland,*
- (f) the impact on the Western Parkland’s linked north-south circulation and access network and whether the development will enable access to all parts of the Western Parklands that are available for recreational use,*
- (g) the impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of western Sydney,*
- (h) the impact on public access to the Western Parklands,*
- (i) consistency with:*
  - (i) any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or*
  - (ii) any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part,*
- (j) the impact on surrounding residential amenity,*
- (k) the impact on significant views,*
- (l) the effect on drainage patterns, ground water, flood patterns and wetland viability,*
- (m) the impact on heritage items,*
- (n) the impact on traffic and parking.*

The greenwaste facility is an approved use on the site and the proposed modification will not alter the nature of operations and its management as previously approved. The inclusion of additional area to the facility and addition of the mechanical workshop shed will not impact on the development, operation and management of the Western Parklands and access to it.

There are no additional impacts to residential amenity, significant views, heritage items and traffic and parking.

Overall the proposal is not considered to hinder the aims of the Policy as it involves the physical extension of an existing approved facility within an area used for waste management purposes.



- State Environmental Planning Policy (Infrastructure) 2007

This SEPP provides a consistent planning regime for infrastructure and the provision of services across NSW.

Division 23 of the SEPP applies to waste or resource management facilities. The subject facility falls under the definition of resource recovery facility as follows:

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

In addition a ‘waste or resource management facility’ means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

Clause 121(1) provides that development for the purpose of waste or resource management facilities, may be carried out by any person with consent on land in a prescribed zone. As noted above Clause (6) of the SEPP (Western Sydney Parklands) 2009, identifies the site as a prescribed zone.

However, as previously noted, the greenwaste facility is a previously approved use on the site and the proposed modification is not considered to significantly alter the approved use of the site. As such SEPP (Infrastructure) 2007 does not affect the proposal.

- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been modified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been differed indefinitely or has not been approved); and***

No such instrument applies to this proposal.

- (iii) any development control plan; and***

No development control plans apply to this proposal.

- (iv) any planning agreement that has been entered into under section 93F, to any draft planning agreement that a developer has offered to enter into under section 93F, and***

No planning agreement entered into under section 93F applies to the existing consent or the proposed modification.

- (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)***

The facility is classified as designated development under Clause 32 of Schedule 3 of the regulations. However Clause 35 of Schedule 3 states:

*Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent*

*authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.*

In this regard, this Statement indicates that the proposed modification will not significantly increase the environmental impacts of the total development and is therefore not designated development under the regulations.

Additionally the regulations make certain requirements with respect to applications for Modification of Consents under S.96(2) pertaining, in particular, to content of the application (s.115) and public participation in the assessment process (s.118). The application and its assessment will be consistent with these requirements.

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

The modification application is to extend the existing consent to allow a minor extension of the approved footprint and to incorporate various adjunct facilities including a maintenance zone (workshop shed, fuel supply area, water tanks and manoeuvring area and amenities block). The additional area extends onto previously unoccupied land to the south of the existing facility. The modification does not change the currently approved tonnages being processed by the facility.

The Statement of Environmental Effects (**SEE**), prepared by ERM (2003) for modification to expand the capacity of the existing green waste processing facility (MOD-94-9-2003i; 17 November 2004) assessed the impact of the proposal under the following headings:

- Land use
- Groundwater
- Drainage and Water Quality
- Air Quality
- Noise
- Flora and Fauna
- Visual Impacts
- Archaeology and heritage
- Traffic and Access
- Waste
- Hazardous Material
- Utilities and Services
- Public and Worker Safety
- Fire Safety
- Cumulative Impact

In order to illustrate the impacts of this Modification in comparison with the 2004 Consent, each of these matters is briefly discussed below.

- Land use

The proposed modification to extend the greenwaste platform as discussed in this statement is contained wholly within the Eastern Creek WRC. Operations of the facility are integrated with other waste management activities on the site and there will be no significant impact on surrounding land uses.

- Groundwater

The greenwaste platform (including the extension area subject of this modification) is covered with a low permeable shale/clay hardstand, effectively preventing any seepage of surface water into any underlying groundwater. Existing bores are used to monitor any changes in groundwater conditions and monitoring is undertaken in accordance with relevant Environmental Planning Licence (**EPL**) conditions.

- Drainage and Water Quality

The western platform continues to drain to the ANL dam, situated to the west of the platform whilst the eastern platform drains to the dam situated to the north-east of the eastern platform. There are no proposed changes to the drainage arrangements on site. The SEE concluded, following hydraulic analysis and modelling, that both dams could be expected to overflow less than once in 10years on average. Additionally water quality is monitored in accordance with the requirements of the EPL for the site.

- Air Quality

Air quality impacts were discussed in the SEE with respect to dust and odour. Dust minimising measures were noted in the SEE and ongoing monitoring of dust is carried out on site. Dust emissions would not change as a result of the proposal and impacts would remain acceptable.

An odour assessment was undertaken by PAEHolmes (formerly Holmes Air Sciences) to assess the potential impact of extending the site area of the existing greenwaste operation. A statement from PAEHolmes is contained in Appendix A.

The statement notes:

*“We understand that the modification would not result in any increase in input tonnage or production rate; therefore any increase in odour impacts is very unlikely. However as the source of odour is stockpiled greenwaste/composted material, it is possible that there could be an increase in the emitting surface area given that there is potential to spread the material out further. This is unlikely, given that the site operations would not change and the purpose of the expansion is to allow more efficient operation of the site which could be hindered by a significant increase in stockpile area.”*

As such, given that there will be no change to current operations on site, the proposed extension will not result in an increase in odour from the facility.

- Noise

The SEE demonstrated compliance with noise level restrictions applied by the EPL for the site. As noted above, there are no proposed changes to the current operation of the facility and as such there will be no additional noise impacts. Ongoing noise monitoring is carried out on site to ensure continued compliance with noise limits.

- Flora and Fauna

The proposed extension will not have any affect on flora and fauna as the extended area utilises an existing cleared area.

- Visual Impacts

There will be no additional visual impacts on the surrounding area as the proposed extension will be located within the existing waste management facility and cannot be viewed from outside the Eastern Creek WRC.

Additionally there is existing planting along the eastern, western and southern boundaries that provides additional screening and improves the overall appearance of the site.

- Archaeology and Heritage

The SEE stated that there are no heritage listed items or known items of archaeological significance on or near the site.

- Traffic and Access

As the modification does not change the existing operations and management of the facility, there will be no increase in traffic accessing the site. Also, there are no changes to existing access arrangements onsite.

- Waste

Given that there are no proposed changes to the operations on site, the handling of any wastes will remain unchanged. As noted in the SEE, the only wastes onsite relate to contaminants in the greenwaste. These wastes are removed from the green waste prior to processing and are recycled or disposed of to landfill as appropriate.

- Hazardous Material

The handling of any potential hazardous wastes remains unchanged on site. Any Hazardous wastes brought to the site are separated and disposed of to a premises licensed to accept hazardous materials.

- Utilities and Services

The amenities building is serviced by a bio-septic system. The site is connected to reticulated water and electricity is supplied via existing services to the WRC.

- Public and Worker Safety

The facility has a Site Safety Management Plan and System in place; Environmental risk assessment, including OH & S assessment conducted in accordance with the site's EMP. Additionally, site workers are inducted to the site and trained accordingly.

- Fire Safety

There will be no change to current fire management practises on site. Fire management practices are outlined in the facility's Fire Management Plant. Fire fighting equipment is accessible on site and site staff are trained to manage any fire outbreaks.

- Cumulative Impact

Operation of the current facilities creates positive cumulative impacts at social, economic and environmental levels. The proposed amendments will have no negative impacts and will contribute to these existing positive impacts.

**(c) *The suitability of the site for the development;***

The greenwaste facility has been operating on the site since it was approved in 1996. The additional area that is the subject of this application extends onto previously unused land to the south of the existing facility. The proposed modification is to alter the footprint of the facility and include a mechanical workshop shed. It will not change the nature or intensity of the operations of the facility. The workshop shed, which is necessary for the operations of the facility, is built on the extended site as it provides a stable building platform on unfilled land in preference to the currently approved area which incorporates only filled land which may be unsuitable for building construction. On this basis it is considered that the site will remain suitable for the development as modified.

**(d) *Any submissions made in accordance with this Act or the regulations;***

Submissions made to the notification of the proposed modification will be considered by the applicant and the proposal will be amended if required prior to final consideration by the Minister.

**(e) *The public interest***

The facility receives and processes greenwastes from local council areas, from other WSN transfer stations and from commercial contractors into quality compost products. As noted above there will be no change to the management and operation of the facility. The facility will continue to service the green waste recycling needs of the area.

The proposed modification will allow for more efficient operations to be carried out on site and allow the facility to better service the needs of the public in this respect with no impacts to the amenity of the locality.

The overall outcome of this assessment is that the proposed modification is considered to have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act

## **7.0 CONCLUSIONS**

The proposed extension of the greenwaste facility is required to allow for more efficient operations to occur on site. In addition the extension includes a workshop building that could not be located within the approved footprint of the site given the hazards of such construction on filled land.

The proposal is to modify the Ministers Consent 29/19 dated 2 June 1996 (as modified on 17 November 2004 and 6 July 2007) by addition of the workshop building and by modifying Condition 4 to allow extension onto the adjoining allotment over a total additional site area of 0.95 hectares.

This assessment has indicated that the proposed modification is consistent with the requirements of S.96(2) of the *Environmental Planning and Assessment Act 1979* in that:

- The modification will result in 'substantially the same development' as that originally approved; and
- The development will have acceptable environmental impacts with respect to the 'matters of consideration' in section 79C of the Act.

Given the minor nature of the proposal and that there is not considered to be any additional impacts or changes to current operations on site, the proposed modification is considered substantiated.

**APPENDIX A: ODOUR IMPACT STATEMENT**