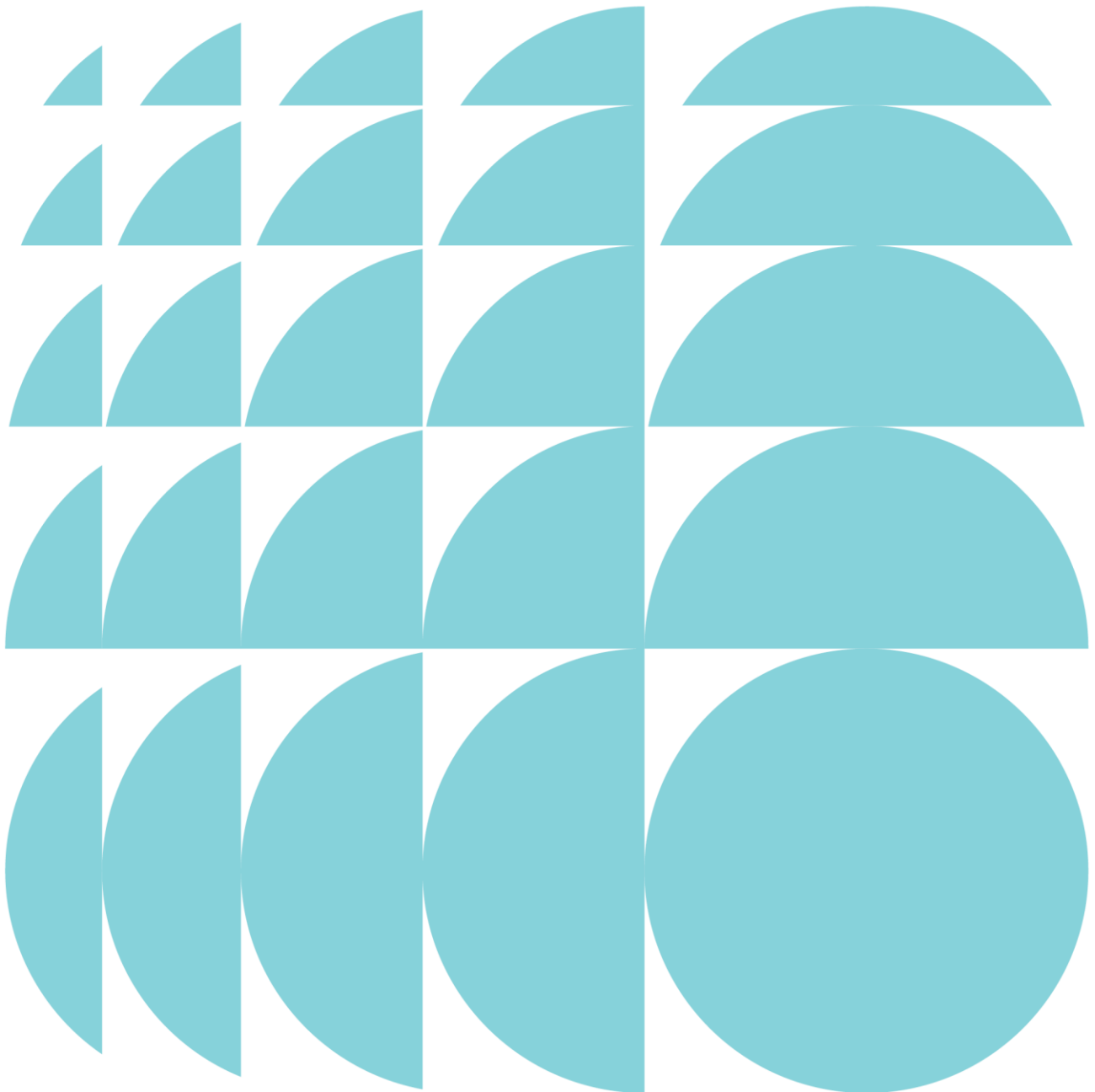




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Contents

1.0	Introduction	3
2.0	Site Analysis	4
2.1	Site Location	4
2.2	Site Description	4
2.3	Site Context	4
2.4	Site Historical Context –Voluntary Planning Agreement	6
2.5	Existing Breen Resources Facility Operations	7
3.0	Description of the Proposal	8
3.1	Overview	8
3.2	Demolition of existing facilities and infrastructure	10
3.3	Resource recovery facility	10
3.4	Landfill component	13
3.5	Parklands component	13
3.6	Construction, sequencing and timing	14
4.0	Strategic Context	14
4.1	Strategic need for the proposal	14
4.2	Alternative Options	15
5.0	Statutory Planning Context	16
5.1	Relevant Legislation	16
5.2	Relevant EPIs, Policies and Guidelines	18
6.0	Consultation	22
7.0	Preliminary Environmental Assessment	23
7.1	Stormwater and Water Quality	23
7.2	Groundwater	23
7.3	Ecology	24
7.4	Non-Indigenous Heritage	24
7.5	Indigenous Heritage	25
7.6	Visual impacts	25
7.7	Traffic	25
7.8	Air Quality	26
7.9	Noise and Vibration	26
7.10	Waste Management	26
7.11	Previously Landfilled Areas	26
7.12	Fire Risk	27
7.13	Hazards	27
8.0	Conclusion and Next Steps	27

Contents

Figures

Figure 1 – Locality Plan	4
Figure 2 – Site Context	5
Figure 3 – VPA Context	7
Figure 4 – Proposal	8
Figure 5 – Flow chart of material flow through the Proposal	9
Figure 6 – Resource Recovery Facility Layout Plan	11

Tables

Table 1	Resource recovery facility capacity	12
Table 2	Landfill volumes and capacity	13
Table 3	Special Development Zone Objectives	19

Appendices

A Layout Plan

Ethos Urban

B Protected Matters Search Report

Commonwealth Department of Environment and Energy Protected Matters Search Tool

1.0 Introduction

This Scoping Report is submitted to the Department of Planning, Industry and Environment (DPIE) in support of a State Significant Development Application pursuant to Schedule 1 Clause 23(3) of *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP), to develop a new integrated resource recovery facility with associated on-site disposal of residual wastes, and land rehabilitation activities using recovered resources for the delivery of the publicly accessible Marang Parklands (the Proposal).

The Scoping Report has been prepared by Ethos Urban on behalf of Breen Resources Pty Ltd (Breen). This report describes the site, its environs, and the Proposal, and provides a preliminary environment assessment of the Proposal in terms of the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The land that currently contains the Breen Resources Facility, and which is the subject of the Proposal, comprises Lot 1122 and Lot 1123 DP794114, and Lot 5 and Lot 6 DP1158627 (the Breen Site). Breen currently operates a facility in the western part of the Breen Site that receives excavated materials and selected building and demolition type materials, and carries out the restoration of the site by application of these materials to the land pursuant to development consent DA/269/90 (Breen Resources Facility).

Parts of the Breen Site, including Lot 1122 and Lot 1123 DP794114, and Lot 6 DP1158627, are also subject of a Voluntary Planning Agreement (VPA), which requires the future provision of regional recreational facilities and parklands, (named by Sutherland Shire Council as the Marang Parklands) on the land.

The Proposal involves construction and operation of a new integrated resource recovery facility that will facilitate the consolidation of all functional waste management activities within the eastern part of the Breen Site. To facilitate delivery of the Marang Parklands on Lots 1122 and 1123 DP794114, parts of the existing Breen Resources Facility will need to be demolished. The existing facility's infrastructure is located on land that will become developed in future as Stages 2 and 3 of the Marang Parklands playing fields.

Consolidation of waste management activities within the eastern part of the Breen Site, coupled with the development of the resource recovery facility, would allow Breen to deliver this activated recreational space and other publicly accessible parklands in the western part of the Breen Site to the community. This would enable Breen to meet the commitments made in the VPA.

The Proposal would contribute to the delivery of quality green, open and public space at Kurnell, supporting the Premier's priority to "increase the tree canopy and green cover across Greater Sydney by planting one million trees by 2022". The Proposal would also contribute to achieving the NSW Government's resource recovery targets as outlined in both the National Waste Policy: Less waste more resources and the NSW "Waste and Resource Recovery Strategy 2014-2021". Modern waste processing and handling equipment would ensure that best practice in resource recovery is demonstrated at the Breen Site, a key priority for the NSW EPA.

2.0 Site Analysis

2.1 Site Location

The Breen Site is located within the Local Government Area of the Sutherland Shire, and is approximately 12 kilometres south of the Sydney Kingsford Smith Airport. The Breen Site's locational context is shown at **Figure 1**. Situated on the Kurnell Peninsula, the Breen Site is positioned between Quibray Bay (within Botany Bay) to the north and Bate Bay (being Cronulla and Wanda beaches) to the south.

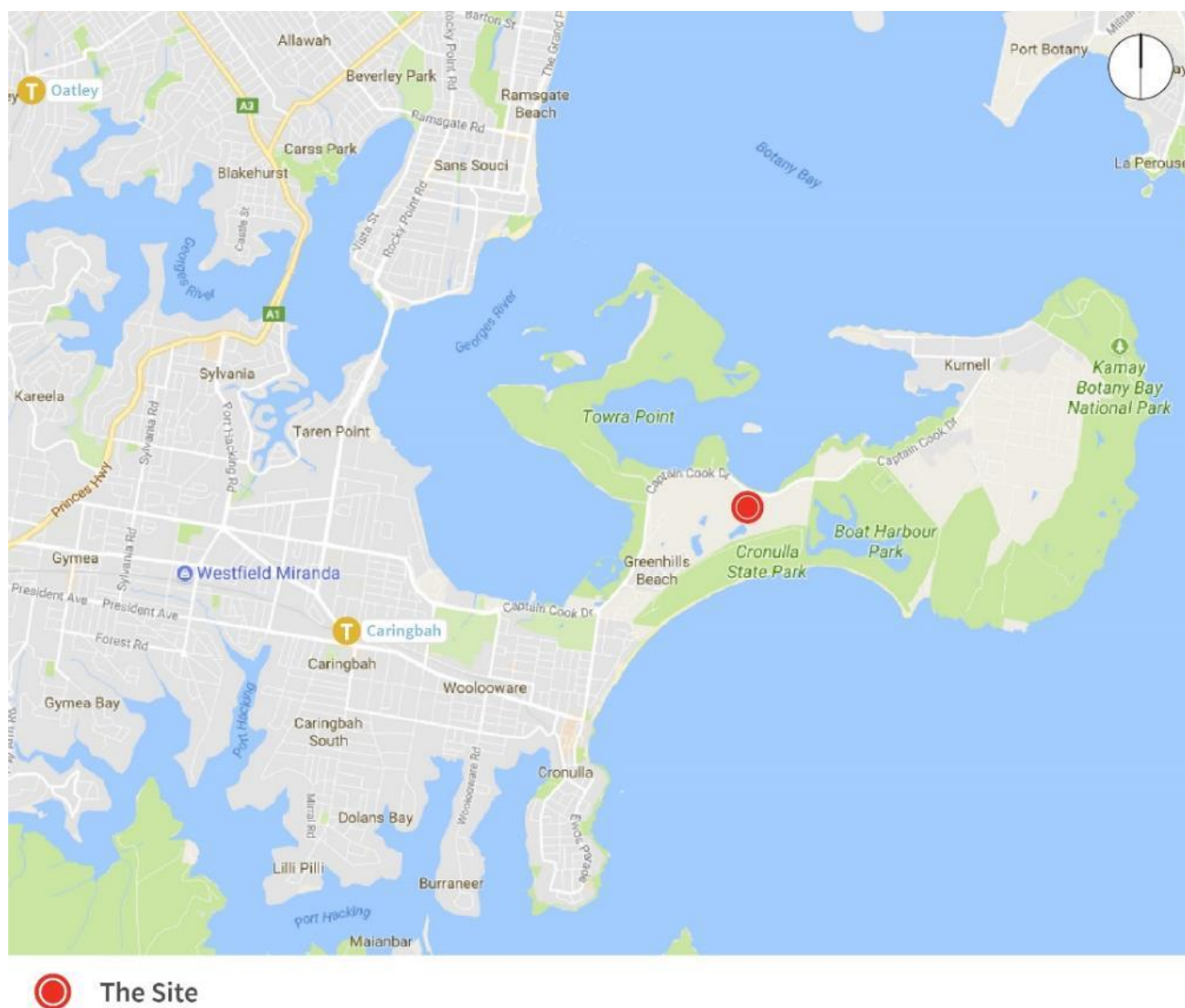


Figure 1 – Locality Plan

2.2 Site Description

As described above, the Breen Site, which is the subject of the Proposal, comprises Lot 1122 and Lot 1123 DP794114, and Lot 5 and Lot 6 DP1158627.

2.3 Site Context

A local context plan is provided in **Figure 2**, which overlays the boundaries for the land that is the subject of this Proposal, being the full extent of the existing Breen Resources Facility.

The Breen Site is generally bounded to the north by Captain Cook Drive, providing access from North Cronulla through to the village of Kurnell, as well as the main access to the Breen Site. Further to the north of Captain Cook Drive are the foreshores and waters of Botany Bay, including the Towra Point Nature Reserve.

Near the eastern end of the Breen Site, Sporting Field No. 1 and the Skate Park have recently been constructed on Lot 1 DP 1101922 and are now operational. This new recreational area represents the closest existing sensitive receptor to the eastern part of the Breen Site, where the resource recovery facility is proposed to be located. An electricity transmission line easement runs along this boundary, between the Breen Site and the Sporting Field No. 1 and Skate Park recreational area. The easement contains Ausgrid 132kV overhead electricity transmission lines. Further to the west, Hockey Fields No. 2 and No. 3 have also already been constructed on Lot 111 DP777967 and part of Lot 1123 DP794114, and are now operational.

To the south, the Breen Site adjoins the Heritage Sand Dune and Cronulla State Park, which leads to Wanda Beach, fronting onto Bate Bay.

To the east, the Breen Site is bounded by an unconstructed extension of Lindum Road, within which a pedestrian footpath has been constructed for beach and foreshore access. Beyond the Lindum Road road reserve is a sand mining site that is being progressively mined for building sand and backfilled with virgin excavated natural materials. The sand mining site has been the subject of development applications in the past, including for a hotel resort comprising a golf course, club house hotel, and associated condominiums. Those applications have been unsuccessful and no development of this nature has been undertaken at the site to date. However, it is understood that the landowner still intends to develop the land in the future for uses of a similar nature, and is preparing a rezoning proposal for this purpose.

To the west, the Breen Site adjoins Charlotte Breen Memorial Reserve and Sydney Water's Cronulla wastewater treatment plant. Beyond Charlotte Breen Memorial Reserve to the south west is the new residential suburb of Greenhills Beach, comprising low density residential housing.



Figure 2 – Site Context

2.4 Site Historical Context –Voluntary Planning Agreement

In September 2008, a joint rezoning proposal was submitted to Sutherland Shire Council (Council) by Breen Holdings Pty Ltd, Consolidated Development Pty Ltd (now renamed Breen Property Pty Ltd (Breen Property) and Australand Kurnell Pty Ltd (now renamed Frasers Property Australia Limited ('Frasers')). The rezoning was approved by the Minister for Planning in August 2010.

In June 2010, a Voluntary Planning Agreement (VPA) was entered into between Breen Holdings Pty Ltd (subsequently novated to Breen Property, Frasers and Council. At no cost to the community, the legally binding VPA required Breen Property and Frasers to deliver the following:

- A staged transfer of 91ha of land to public ownership for the purpose of environmental conservation and public open space.
- Construction of regional recreation facilities, including 10 playing fields, a skate park, 3 amenities buildings, walking and cycling tracks, picnic facilities and associated parking for over 400 cars.
- Rehabilitation and landscaping of degraded land previously dredged for sand mining to support an ecological 'green corridor' stretching from the Towra Point Nature Reserve to the ocean at Wanda Beach.

The delivery of the land and associated works is currently being undertaken in accordance with the VPA. Development Application DA/11/0665, which was approved by Council on 23 April 2012, provides for the first three stages of the works required by the VPA, including a concept masterplan for ten sporting fields, skate park, and associated parking, lighting, amenities building; habitat rehabilitation, and stormwater treatment facilities.

The first stage of the recreational facilities approved under DA/11/0665 has already been developed, comprising Sporting Field No. 1, two hockey fields, the skate park, car parking, and associated amenities and landscaping. Subsequent stages of the concept masterplan for DA/11/0665 are located on Lots 1122 and 1123, and Lot 6, and include seven more playing fields, as well as additional car parking and amenities.

Breen is committed to delivering the community benefits set out in the VPA, and is currently planning for both the additional playing fields approved under DA/11/0665, as well the delivery of public open space and parklands on the western part of the Breen Site (part of this Proposal), both of which require the demolition and removal of plant and infrastructure associated with the existing Breen Resources Facility.

Part of the Breen Site is also the subject of delayed rezoning provisions in the *State Environmental Planning Policy (Kurnell Peninsula) 1989* (Kurnell SEPP), which do not yet have effect. This is described in further detail at Section 5.2.7.

Figure 3 shows the land subject of the VPA, as well as the parts of the Breen Site where the VPA requires the delivery of parklands, public open space and playing fields.

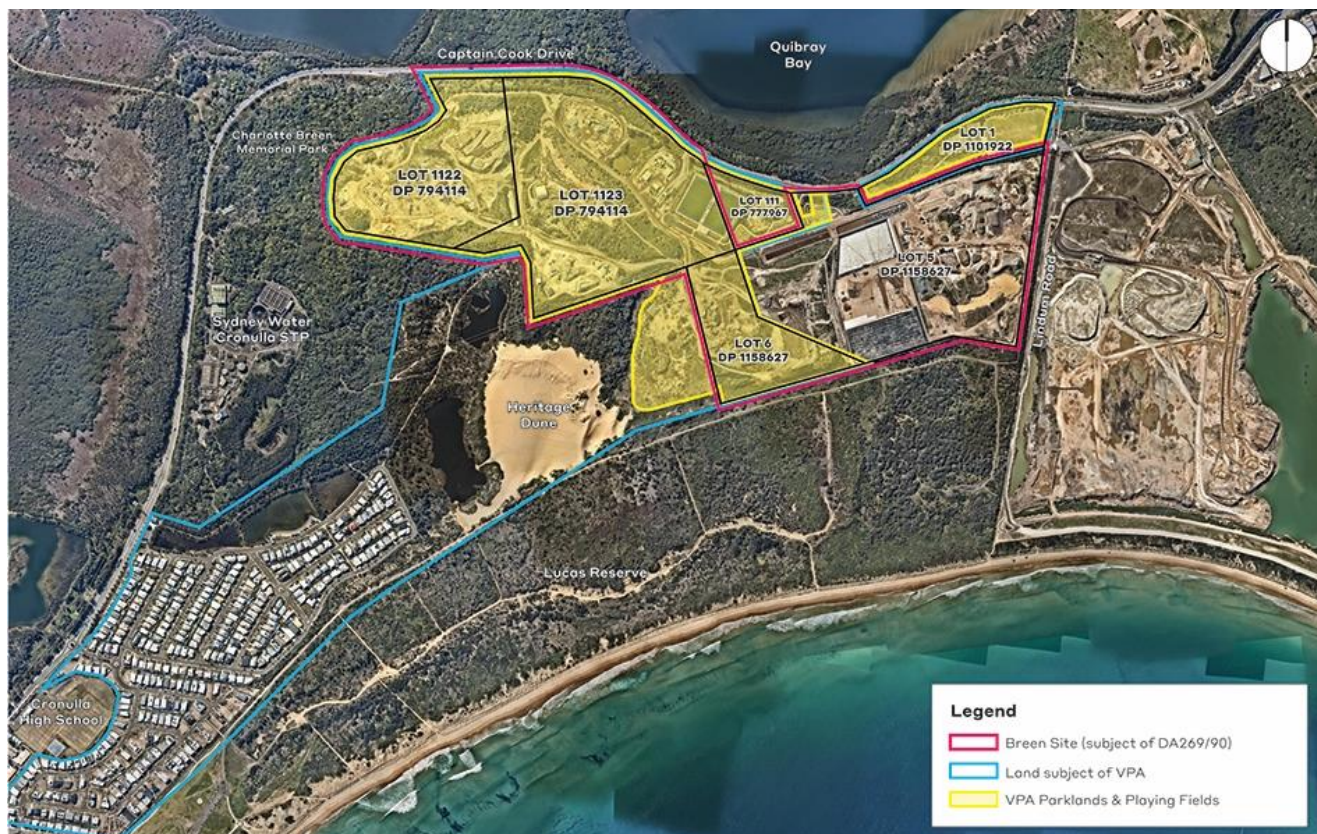


Figure 3 – VPA Context

2.5 Existing Breen Resources Facility Operations

On 6 September 1990, Council granted consent to DA/269/90, which provides for the establishment of a depot to receive excavated materials and selected demolition type materials, and for the restoration of the land by application of the materials to the site. The 'depot' and land restoration activities together comprise the existing Breen Resources Facility.

The consent does not impose a time limitation on the development or any maximum limits in terms of daily, annual or total volumes of material that can be received, managed or placed at the Breen Site.

Breen has been operating the Breen Resources Facility since its commencement. Prior to the current use, the Breen Site was subject of extensive sand mining by Breen.

Site access is via the existing driveway on Captain Cook Drive. The Breen Resources Facility is currently open to the public from 6am to 4pm Monday to Friday, and 6am to 1.30pm on Saturday. The facility occasionally operates during evening and night-time periods when it is necessary to receive waste materials from 24-hour work sites.

The Breen Resources Facility is the subject of two existing Environment Protection Licences (EPLs) in relation to the existing waste management activities (EPL 4608 and EPL 20697) issued by the Environment Protection Authority (EPA) under the *Protection of the Environment Operations Act 1997* (POEO Act). The Breen Resources Facility is licensed to accept a range of waste materials, including natural and excavated materials and demolition type materials.

Placement of excavation and demolition type materials on Lots 1122 and 1123 DP 794114 has ceased, and the current active land restoration area is limited to the western part of Lot 5 DP1158627 and the eastern part of Lot 6 DP1158627. However, the activities associated with the 'depot' for receipt of the excavation and demolition type materials are still carried out predominantly on Lots 1122 and 1123 DP794114.

3.0 Description of the Proposal

3.1 Overview

The Proposal involves four key integrated components, being:

- Construction and operation of a resource recovery facility on the eastern part of the Breen Site (Lot 5 DP1158627), including consolidation of existing waste management activities within this part of the Breen Site.
- In conjunction with the resource recovery facility, continuation of current land restoration operations at the Breen Site by permanent application of some of the residual waste materials from the resource recovery facility to land on Lot 5 and part of Lot 6 DP1158627.
- Capping and contouring areas of the Breen Site within Lot 1122 and 1123 DP794114 with suitable material recovered from the resource recovery facility. Some specific material would be imported to the site for capping, such as low permeability clay.
- Delivery of activated community space in the form of parklands on Lots 1122 and 1123 DP794114 and Lot 6 DP1158627.

The full extent of the Proposal is shown in **Figure 4**.



Figure 4 – Proposal

The four integrated components of the Proposal are critical to maximising resource recovery rates at the facility, and ensuring an efficient use of the limited landfill capacity at the Breen Site. The relationship between the four components of the Proposal is shown in the flow chart in **Figure 5**, which maps the flow of material through the resource recovery facility.

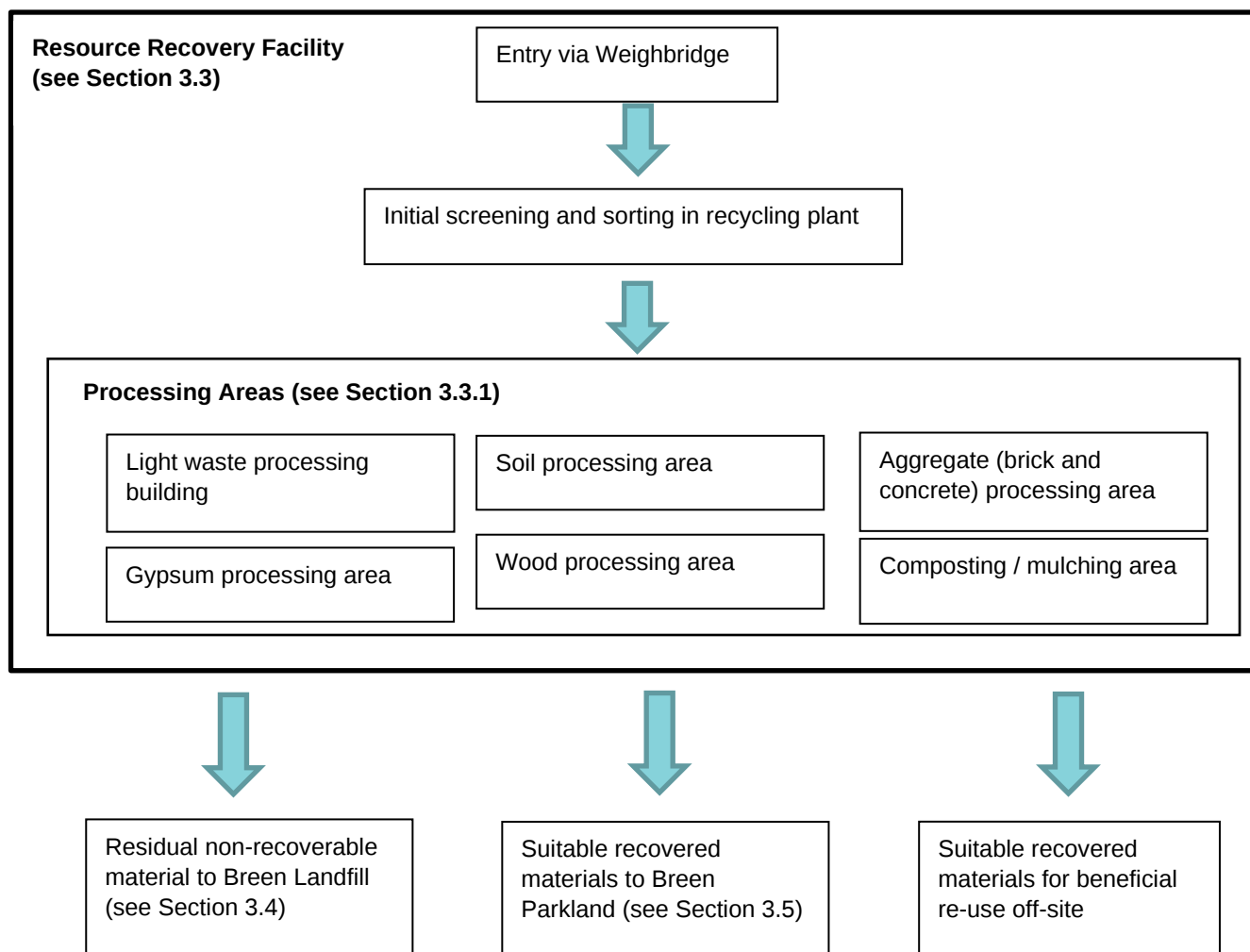


Figure 5 – Flow chart of material flow through the Proposal

In particular, as Breen would be in control of all aspects of the Proposal, it will control the type and quantity of waste materials accepted at the resource recovery facility, as well as ensuring that the recovered materials are fit for purpose. The resource recovery facility has been designed to accept a very specific combination of waste streams, reflecting Breen's long term experience and expertise in operating the existing Breen Resources Facility, as well as a clear understanding of the beneficial reuse opportunities encouraged by Government, the EPA and the community.

With consideration of the specific waste streams identified, Breen has carefully designed the proposed screening, sorting and processing activities to ensure that the opportunities for beneficial reuse of waste material on the Breen Site are maximised. The design of the resource recovery facility therefore responds to Breen's own resource recovery objectives for the Breen Site, being the development of high quality activated open space and parklands.

In this way Breen would maximise the efficiency of the resource recovery facility, enabling high levels of beneficial reuse of waste materials and minimising the need to dispose of residual materials that would otherwise require the use of scarce landfill capacity. With residual materials unable to be recovered for beneficial reuse being disposed of within the landfill area, the Breen Site will become a single facility combining resource recovery, on-site beneficial reuse and disposal of residual waste as part of single integrated operation. The four components of the Proposal are therefore necessarily connected at an operational and commercial level,

The four components of the Proposal are also necessarily connected in relation to achieving the strategic land use outcomes for the Breen Site, being the timely delivery of high quality activated recreational space and publicly accessible parklands.

The resource recovery facility would be open to the public from 6am to 4pm Monday to Friday, and 6am to 1.30pm on Saturdays. It may occasionally operate during the evening and night-time period when necessary to receive waste materials from 24-hour work sites.

3.2 Demolition of existing facilities and infrastructure

As part of the Proposal, the existing waste management infrastructure and facilities located on Lots 1122 and 1123 DP 794114 would be demolished and removed from this part of the Breen Site, including:

- Weighbridge and wheel wash.
- Site office and storage area comprising:
 - Site office, lunchroom, office, and ablutions.
 - Two workshops which consist of covered steel structures are used for various site maintenance activities and storing plant and equipment.
 - Storage yard used for external storage and parking of heavy plant, equipment and site vehicles.
- Parking area.
- Sedimentation, infiltration, and recovered water basin.
- Internal roadways and signage.

Demolition of existing waste management infrastructure on Lot 6 DP1158627 will also be required, including internal stockpile areas. Stockpiled materials will be relocated to the relevant processing area at the new resource recovery facility on Lot 5 DP1158627 as part of the Proposal.

3.3 Resource recovery facility

The Proposal would involve the construction and operation of the following key infrastructure and works:

- An enclosed recycling plant comprising plant and machinery that pre-processes the waste stream and separates various recyclables from this waste stream using size, density and other separation technology. This technology includes shredders, screens, air separators, optical sorters, and magnets. The plant would deliver these materials to bins and bays to be transferred for further processing or sale (e.g. ferrous and non-ferrous metals would be recovered and on sold for further recycling). The plant would include fixed and mobile equipment used to move materials including excavators, loaders and conveyors.
- An enclosed 10,000m² building (approximate) would be constructed to carry out processing of residual light waste materials that cannot be recycled. These include selected timber (engineered and painted), contaminated plastics, fibre (such as carpet), rubber and contaminated paper materials.
- Two weighbridges to ensure secure access to the Breen Site for all commercial vehicles and public drop-off/small vehicles that are bringing material to the Breen Site or taking material off site.
- Site office and administration building and workshop.
- Associated facilities including a parking area for roughly 86 spaces, 2 wheel washes, 2 recovered water basins for management of stormwater and to allow for water recovery and reuse, internal roadways, fencing and visual screening.
- Stockpiles and storage areas for stockpiling of recovered materials and temporary storage of skip bins.

Access to the resource recovery facility will be established via a new access from Lindum Road, along the eastern boundary of the Breen Site. Current access to Lindum Road is via an existing roundabout at the intersection of Captain Cook Drive and Lindum Road. The resource recovery key infrastructure and works to be located at the eastern part of the Breen Site are shown indicatively in **Figure 6**.

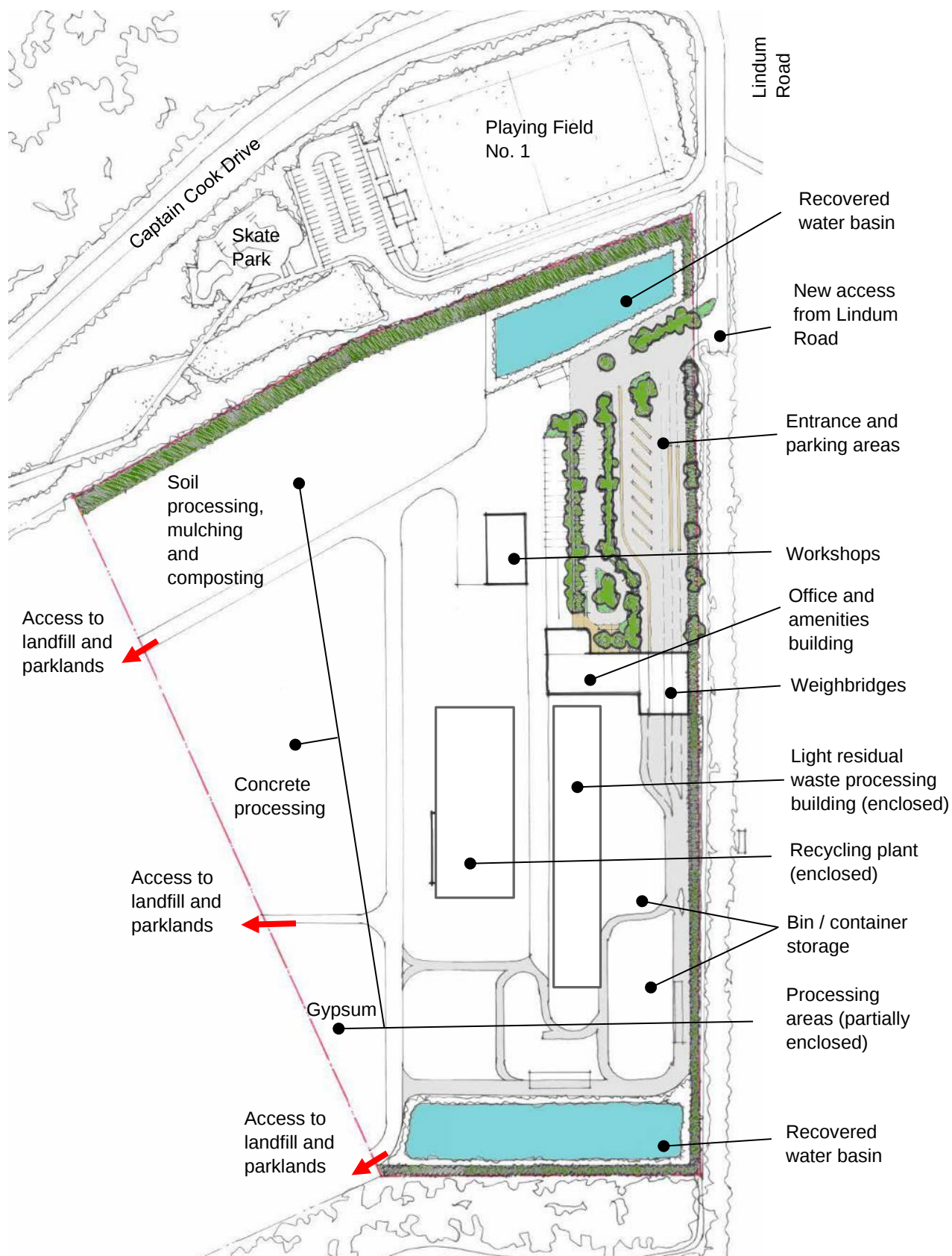


Figure 6 – Resource Recovery Facility Layout Plan

3.3.1 Resource recovery component

The key processing activities to be undertaken at the new proposed resource recovery facility are described below, and their location is shown on **Figure 6**:

- **Processing of residual light waste:** Processing activities to be carried out within the enclosed building would include sorting, shredding and screening of material to extract recyclables including clean timber, plastics, aggregates and soils. Selected residual materials, including selected timber, contaminated plastics, fibre, rubber and contaminated paper materials, are proposed to be shredded, compressed, baled and exported from the facility as Solid Recovered Fuel (SRF) for off-site energy recovery. Up to 40,000 tonnes per annum of SRF is estimated to be generated.
- **Concrete processing:** Recovered concrete, brick and sandstone would be processed by crushing and screening to produce a variety of reusable aggregate products (concrete and brick drainage aggregate, crushed concrete, crushed brick, crushed sandstone or blocks and bedding sand).
- **Plasterboard processing:** Plasterboard and other gypsum wastes would be processed to produce gypsum products for return to manufacturers, as well as fertilizer and soil conditioning products.
- **Soil processing:** Soil material and smaller aggregate materials would be processed by crushing, screening and washing to produce recovered fines and recovered aggregate. This material could be on sold (or used to rehabilitate the Breen Site at the completion of waste emplacement activities), subject to compliance with a Resource Recovery Order and Exemption under the *Protection of the Environment Operations (Waste) Regulation 2014*.
- **Mulching and composting:** Garden and landscaping organics, untreated timber and natural organic fibrous materials would be processed to create compost and other soil additives for use onsite (parklands or other uses) or external sale.

Some processing activities may be carried out in partial enclosures or within fully enclosed buildings, subject to the outcome of environmental assessments and the requirements of the EPA.

3.3.2 Resource recovery facility capacity

The Breen Site currently accepts waste including excavated materials and building and demolition (B&D) waste as part of the land restoration activities permitted under DA/269/90. To facilitate the increased resource recovery activities, it is proposed to supplement this waste stream with:

- Non-putrescible general solid waste from commercial and industrial (C&I) waste sources; and
- Non-putrescible general solid waste comprising garden and landscaping organics, untreated timber and natural organic fibrous materials.

In total, the resource recovery facility is proposed to have a capacity to accept and process up to approximately 500,000 tonnes per annum, comprising approximately 450,000 tonnes per annum of B&D waste and approximately 50,000 tonnes per annum of C&I waste and non-putrescible organic waste. This is summarised in the Table 1 below.

Table 1 Resource recovery facility capacity

Description	Current (tonnes per annum)	Proposed (tonnes per annum)
Building and demolition (B&D) waste received at site	400,000	450,000
Commercial and industrial (C&I) waste and non-putrescible organic waste received at site	0	50,000
Total	400,000	500,000

3.4 Landfill component

Landfilling and rehabilitation activities are currently being carried out on Lots 5 and 6 DP1158627 pursuant to DA/269/90. The landfill area is adjacent to the proposed resource recovery and waste processing areas, as shown in **Figure 4** and **Figure 6**. The landfilling component of the Proposal involves continuation of the current waste disposal and land rehabilitation operations, which comprise filling, capping and contouring with residual and recovered materials.

A breakdown of the approved and proposed landfill capacity is provided in **Table 2**. Further to this table, it is noted that this application seeks approval for an additional 1,800,000 m³ (approx) of material on Lots 5 and 6 DP1158627, compared to the site levels expected to be achieved by 1 January 2020. This involves landfilling to a level of approximately RL 30m in the southern part of the landfill area, and approximately RL10m along the northern and eastern edges of the landfill area to create an undulating final landform consistent with the undulating sand dunes that existed prior to sand mining. It is also highlighted that under DA/269/90 the Breen Resources Facility is currently authorised to fill Lots 5 and 6 DP1158627 to levels up to approximately RL 25m.

Currently approximately 80,000 tonnes per annum of residual wastes are landfilled at the Breen Resource Facility, however recovery rates are expected to increase significantly once the resource recovery facilities are fully operational, meaning that there is likely to be more than a 50% reduction in material requiring landfill disposal.

As with the existing consent requirements under DA/269/90, the landfill areas on Lots 5 and 6 DP1158627 would be capped and stabilised in accordance with EPA requirements, including providing a grassed surface upon closure.

Table 2 Landfill volumes and capacity

Description	DA/269/90	Proposed	Difference (m3)	Difference (%)
Waste				
Lots 5 and Lot 6 DP1158627	3,029,000	3,444,000	415,000	14%
1122 and 1123 DP 794114	7,145,000	6,768,000	-377,000	-5%
Breen Site total	10,174,000	10,212,000	38,000	0.4%
Total material (waste plus capping and vegetation layers)				
Lots 5 and Lot 6 DP1158627	3,363,000	4,470,000	1,107,000	33%
Lots 1122 and 1123 DP 794114	12,363,000	13,200,000	837,000	7%
Breen Site total	15,726,000	17,670,000	1,944,000	12%

3.5 Parklands component

Lots 1122 and 1123 DP794114 are no longer subject to active landfilling under DA/269/90. However, further site reprofiling is needed to create high quality activated open space and parklands for the Sutherland community.

The landform proposed for the parkland has been designed to create a variety of spaces, grades and profiles to achieve specific recreation and environmental objectives. Recreation objectives include pathways and tracks that are wheelchair accessible, steeper tracks for more challenging walks and hikes, as well as open amphitheatres, lawns and lookouts to connect the community to the surrounding wetlands, parks and ocean. The environmental objectives include creating sheltered and more open landscapes creating the right environment for forest and heath landscapes that replicate the former sand dune profiles.

As indicated in **Table 2**, to create the proposed landform, approximately 840,000 m³ of soils are required in addition to the volumes consented by DA/269/90. This 840,000 m³ (approx) of soil to be placed as part of this proposed parkland development is proposed to be suitable recovered material produced by the resource recovery facility for this specific purpose. These recovered materials would be applied to land in accordance with applicable EPA resource recovery exemptions. The landscape design would include soils as the growing medium and aggregate drainage layers constructed from recovered materials.

Once these lots are reprofiled, parklands would be established to provide for activated community space on the rehabilitated land within these lots (Lots 1122 and 1123 DP794114 and Lot 6 DP1158627), which will include:

- revegetation with Dune Forest and Heath, as well as informal native grass areas and managed native grass areas, with a number of informal picnic zones;
- a cleared 'Village Green' area in the middle of the parklands with amphitheatre and associated BBQ/picnic amenities, and a panoramic look out to the west; and
- internal access road and parking areas, as well as pervious pathways for access throughout the parklands.

The areas would be transferred to Council in accordance with the VPA when the parkland and open space works have been completed to Council's satisfaction.

3.6 Construction, sequencing and timing

Construction of the resource recovery facility would require:

- Installation of sediment and erosion control measures as required
- Reprofilling of the eastern part of Lot 5 DP1158627 to create a construction level at approximately RL 5m, and raised mounds around the northern, eastern and southern boundary for visual and acoustic screening.
- Road works to connect the eastern part of the Breen Site to Lindum Road.
- Construction of internal civil works including roads, stormwater infrastructure and recovered water basins.
- Construction of new buildings and enclosures.
- Installation of plant and equipment including weighbridges, wheel washes, and waste processing equipment.

To maintain ongoing operational activities at the existing Breen Resources Facility, the Proposal must be carried out in the following sequence:

- Construction of the resource recovery facility on Lot 5 DP1158627.
- Demolition of existing waste management infrastructure and processing areas on Lots 1122 and 1123 DP794114 and Lot 6 DP1158627.
- Reprofilling of Lots 1122 and 1123 DP794114.
- Revegetation of Lots 1122 and 1123 DP794114 and installation of parklands landscaping, infrastructure and facilities.

Landfilling on Lots 5 and 6 DP1158627 would continue whilst the above sequence of works is completed. Following completion of landfilling on Lots 5 and 6 DP1158627, Lot 6 would be revegetated in accordance with the VPA.

4.0 Strategic Context

4.1 Strategic need for the proposal

The Proposal comprises a number of integrated components. A key feature of the Proposal is a state of the art resource recovery facility with the capacity to receive and process up to 500,000 m³ of material per annum, and divert the majority of this material away from landfill.

There are very few such facilities of this type and scale in NSW at present. Private investment in such infrastructure needs to be encouraged and facilitated, especially in this case, where a facility is already established, is well located to waste generating markets, and has suitable buffers and zoning.

This facility would continue to provide much needed competition in the waste processing and resource recovery market, which would prevent concentration of market power in larger companies. The ACCC Public Competition Assessment for the Bingo – Proposed Acquisition of Dial a Dump (11 April 2019) identified Breen as one of four competitors in the B&D waste processing market. It is therefore important that the facility continues to operate without unnecessary restrictions on its further development and modernisation.

Another key feature of the Proposal is the delivery of the Marang Parklands as envisaged under the VPA. The combination of throughput and processing capabilities, modern resource recovery facilities, and the continuation of approved landfilling and land restoration activities on the Breen Site using material produced on-site is a unique feature of this Proposal.

Utilisation of this material produced by the proposed resource recovery facility would assist in development of the regionally significant parklands and contribute to the timely delivery of the publicly accessible open space for residents of the Sutherland Shire region. This would assist Breen in providing new sporting facilities and general green space in an area designated appropriate for these uses. The Proposal would therefore contribute to the delivery of quality green, open and public space at Kurnell, supporting the Premier's priority relating to greener public spaces.

Through significant reductions in on-site landfilling, the resource recovery facility would also contribute to achieving the NSW Government's resource recovery targets. The use of modern waste processing and handling equipment can demonstrate how best practice can be achieved in waste management and resource recovery through an integrated site approach.

The Proposal promotes the orderly and economic use of the site as it caters to and supports the ongoing and planned development of the parklands while ensuring a modern and efficient resource recovery facility continues to operate on the site.

4.2 Alternative Options

Alternate options to the Proposal above are discussed in this section below. The options are a do-nothing scenario, development of the Breen Site for alternative uses, or delaying the Proposal.

4.2.1 Do nothing

Leaving the current status of the Breen Site unchanged would result in an inability for Breen to deliver the VPA parklands or the Stage 2 and 3 playing fields approved under DA/11/0665 in a timely fashion. Whilst landfilling on Lots 1122, 1123 and Lot 6 has ceased, the waste management activities associated with the existing Breen Resources Facility would continue to operate in their current arrangement, and no new sporting facilities or open space areas would be able to be developed in the near future. This situation would remain until land restoration activities on Lot 5 were completed under DA/11/0665, and separate development consent obtained from Council for the demolition and removal of the Breen Resources Facility. It is highlighted that there is nothing within development consent DA/269/90 that enables Breen to relocate away from Lots 1122, 1123 and Lot 6, and there is nothing in the VPA to compel Breen to demolish and remove existing waste management facilities on these parts of the Breen Site prior to the cessation of land restoration activities on Lot 5.

The 'do nothing' option would also miss the opportunity for:

- Investment in new modern waste processing and handling equipment that would significantly improve resource recovery rates and divert waste away from landfill; and
- Additional improvements, embellishments and community facilities that Breen is proposing to deliver on Lots 5 and 6, over and above what is specified in the VPA.

4.2.2 Alternative use

There are no realistic alternative uses for Lots 1122 and 1123 DP794114, and Lot 6 DP1158627, as the substantive majority of these parts of the Breen Site are the subject of the VPA, with the intended final use as parklands and playing fields.

For Lot 5 DP1158627, DA/269/90 currently authorises the filling of the eastern part of Lot 5. If the resource recovery facility does not proceed on this eastern part of Lot 5, then the land will be subject of filling pursuant to DA/269/90. If this filling takes place as approved, it will essentially make the land less usable for future redevelopment. This is not considered to be the most economic use of the land in the current land use context.

4.2.3 Delaying the Proposal

The Proposal is the most appropriate option at this time given the existing nature of the Breen Site and the shared vision of its redevelopment for playing fields and parklands, while ensuring the landfilling and resource recovery activities continue in the most environmentally sustainable and efficient way. The Proposal supports the future redevelopment of Lots 1122 and 1123 DP794114 as parklands. There is no benefit to Breen or the Sutherland Community to delay the Proposal.

5.0 Statutory Planning Context

5.1 Relevant Legislation

The relevant legislative requirements are outlined below.

5.1.1 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) encompasses an assessment and approvals system for:

- actions that have a significant impact on matters of National Environmental Significance;
- actions that have a significant impact on the environment of Commonwealth land; and
- actions carried out by the Commonwealth Government.

If the Minister for the Environment decides that the proposed action is likely to have a significant impact on a matter protected by the EPBC Act, it is a “controlled action” that requires approval from the Commonwealth Minister for the Environment. The Breen Site is not Commonwealth land and the Proposal is also not an action proposed to be carried out by a Commonwealth agency.

In order to understand the potential impact to matters of National Environmental Significance, an EPBC Act Protected Matters Report has been generated from the Australian Government’s Department of Environment and Energy Protected Matters Search Tool (dated 27 November 2019), and is attached in **Appendix A**. The Protected Matters Report identifies that:

- The Breen Site is located in close proximity to the Towra Point Nature Reserve which is a RAMSAR Wetland located immediately north of Captain Cook Drive.
- The Towra Point Nature Reserve, along with other areas on the Kurnell Peninsula, are listed on the National Heritage Register as the ‘Kamay Botany Bay: botanical collection sites’, being the places where botanist Sir Joseph Banks collected plant specimens in 1770.
- Six Endangered Ecological Communities are likely to occur in the area around the Breen Site, with 69 threatened species likely or known to occur in the area, or likely or known to have habitat in the area.

As such, because the Proposal will be carried out on land that has been subject of extensive landform modification from historical sand mining activities and which is currently cleared of vegetation, it is anticipated that the Proposal is not likely to directly impact on any matters of National Environmental Significance. However, further investigations of potential impacts will be undertaken as part of the EIS in order to determine whether a referral to the Commonwealth Minister for the Environment is warranted.

5.1.2 Environmental Planning and Assessment Act 1979

The EP&A Act applies to all development in NSW and sets out the procedures and objects for all development. The Proposal seeks to carry out development partly defined as State Significant Development (SSD) (being the resource recovery facility as identified in **Section 5.2.1 to 5.2.3** below) and partly prohibited (being those components of the resource recovery activities that comprise ‘waste disposal’ under the Kurnell SEPP). Under Section 4.38 of the EP&A Act development consent can still be granted for SSD that is partly permissible and partly prohibited.

5.1.3 Protection of the Environment Operations Act 1997

As described above, the Breen Site is the subject of the existing EPLs 4608 and 20697 under the POEO Act. EPLs 4608 and 20697 will continue to apply in relation to the ongoing waste management activities, however, will need to be varied as a result of the Proposal. This Proposal will therefore be referred to the EPA for its concurrent assessment of the EPL variations.

5.1.4 Water Management Act 2000

Controlled activity approvals under the *Water Management Act 2000* do not apply to SSD (pursuant to Section 4.41 of the EP&A Act). Further, groundwater interference is unlikely to occur since the Proposal does not involve significant excavations below the existing ground level. As such, an Aquifer Interference Approval is also not expected to be required but will be considered further in the EIS.

5.1.5 Coastal Management Act 2016

The Breen Site is identified as partly within the Proximity Area for Coastal Wetlands and Littoral Rainforests, the Coastal Environment Area and the Coastal Use Area under the *Coastal Management Act 2016*. As such, consideration of these matters will be required as part of the EIS, notwithstanding that the Proposal is fully contained within an existing disturbed landscape.

5.1.6 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) provides the legislative framework for clearing native vegetation and protecting threatened species, ecological communities and their habitats across NSW. The BC Act requires proponents for any SSD to prepare a Biodiversity Development Assessment Report (BDAR). Breen notes that the Proposal will be carried out on land that has been subject of extensive landform modification from historical sand mining activities and which is currently cleared of vegetation. Further, the Breen Site is not identified on the Biodiversity Values Map and Threshold Tool (viewed on 27 November 2019) as containing any native vegetation with significant biodiversity value. As such, an ecological survey and assessment will be conducted as part of the EIS to determine whether it is appropriate to request a BDAR waiver.

5.1.7 Roads Act 1993

The Proposal will involve the construction of a short extension of Lindum Road. The approval of the Council (as the relevant roads authority) under Section 138 of the *Roads Act 1993* will be required for the necessary road works. However, pursuant to Section 4.42 of the EP&A Act, the Section 138 Roads Act approval from Council must be consistent with the SSD consent.

5.1.8 Heritage Act 1977

The *Heritage Act 1977* provides for the protection of historic heritage and includes a process for listing of heritage deposits and/or relics that are of State significance on the State Heritage Register and those that are of Local significance on the State Heritage Inventory. A search of the State Heritage Register (29 November 2019), State Heritage Inventory (29 November 2019) and Schedule 5 of the SLEP (29 November 2019) has been carried out to identify heritage items and heritage conservation areas in the vicinity of the Breen Site.

The Breen Site is located immediately to the north of the State heritage listed 'Cronulla sand dune and Wanda Beach coastal landscape'. North of Captain Cook Drive is the 'Towra Point Nature Reserve and Quibray Bay' which is also identified as a State heritage item and an archaeological site. Further discussion of the nearby State heritage items, as well as other local heritage items identified State Heritage Inventory and Schedule 5 of the SLEP, is provided in **Section 7.4**. Whilst the Proposal will not impact directly on the fabric of any heritage or archaeological items, the EIS will include a heritage impact assessment to assess impacts on their visual context and curtilage.

5.1.9 National Parks and Wildlife Act 1974

The *National Parks and Wildlife Act 1974* (NPW Act) includes the protection of Aboriginal objects and Aboriginal places. Impacts to Aboriginal places or objects require an Aboriginal Heritage Impact Permit from the Office of Environment and Heritage. A 'basic search' of the Aboriginal Heritage Information Management System (27 November 2019) identifies that 10 Aboriginal sites have been recorded in or near the Breen Site. However, the Proposal will be carried out on land that has been subject of extensive landform modification from historical sand mining activities and which is currently cleared of vegetation and natural features. As such, whilst sites or places with significant Aboriginal cultural heritage values are unlikely to be currently present at the Breen Site, the EIS will include an assessment of potential impacts to Aboriginal cultural heritage values of the Breen Site and its surroundings in accordance with Office of Environment and Heritage guidelines.

5.1.10 Legislation which is not applicable

Under Section 4.41(1) of the EP&A Act, the approvals required to be obtained under the following legislation do not apply to SSD:

- *Water Management Act 2000* (excluding an aquifer interference approval);
- *Rural Fires Act 1997*;
- *Fisheries Management Act 1994*;
- *Heritage Act 1977*; and
- NPW Act.

5.2 Relevant EPIs, Policies and Guidelines

The relevant strategies, environmental planning instruments, policies and guidelines applicable to the Proposal are outlined below.

5.2.1 State Environmental Planning Policy (Kurnell Peninsula) 1989

The Kurnell SEPP is the principal environmental planning instrument that currently applies to the land the subject of this Proposal as it provides generally for the zoning, permissibility and development control of most kinds of development at the Breen Site. Under the Kurnell SEPP the Breen Site is zoned as 7(b) Special Development Zone, which permits a variety of uses of an industrial and commercial nature as well as tourism uses, however prohibits a number of other uses, including residential uses and waste disposal.

Specially, clause 9 of the Kurnell SEPP sets out that any development is permissible with consent within the 7(b) zone, except for the following prohibited uses:

*Dwelling-houses; extractive industries (other than sand mining); hazardous industry or storage establishments; junk yards; mines; offensive industries; places of public worship; residential flat buildings (other than those used only for holiday or other non-permanent residential accommodation); stock and sale yards; toxic industries; transport terminals; units for aged persons; **waste disposal**.*

Waste disposal is defined as:

the use of a building or place for the purpose of treating, storing or disposing of any waste, as defined by the Waste Disposal Act 1970, other than a building or place used for the treatment, storage or disposal of waste resulting from any other activity carried out on the same land, or for the purposes of a depot registered with the Environment Protection Authority for the receipt of natural excavated material and demolition materials as approved by that Authority.

Under development consent 269/90, referred to in section 2.0 above, Breen currently has consent to operate a “depot registered and approved by the EPA for the receipt of natural excavated material and demolition materials”.

The proposed resource recovery facility would include ‘*a building or place used ... for the purposes of a depot registered with the Environment Protection Authority for the receipt of natural excavated material and demolition materials as approved by that Authority*’.

As such, the component of the Proposal that involves the receipt of natural excavated material and demolition materials for treatment, storage or disposal is permissible. This partly permissible component applies to the resource recovery facility and the landfill to the extent that they treat, store or dispose of natural excavated material and demolition materials. The partly permissible component would also apply to parklands development to the extent that it involves the use of soil and other materials derived from natural excavated material and demolition materials for landforming. The construction of parkland embellishments, facilities and infrastructure, as well as the use of the area for recreation are also permissible.

The aspects of the Proposal that are not permissible comprise the resource recovery facility and the landfill activities that involve the treatment, storage or disposal of materials that are neither natural excavated material nor demolition materials.

As explained in Section 5.1.3 above, development consent can still be granted for SSD that is partly permissible and partly prohibited. As such, because it is SSD and partly permissible, development consent can be granted for the Proposal.

The 7(b) Special Development Zone has the following objectives, with an assessment of each provided in **Table 3** below.

Table 3 Special Development Zone Objectives

State Environmental Planning Policy (Kurnell Peninsula) 1989	
(a) to provide flexible planning controls which permit a broad range of land uses subject to compliance with environmental performance criteria,	The Proposal will not change the land use on Lot 5 DP1158627, and would remain compliant with relevant environmental performance criteria.
(b) to ensure that development is compatible with the unique ecological and landscape attributes of the Kurnell Peninsula, especially the wetland areas and their environs,	The land use is not changing on Lot 5 DP1158627 and remains compatible with attributes of the Kurnell Peninsula. The development will not impact on wetland areas or their environs, and will facilitate the rehabilitation of land at Lots 1122 and 1123 DP794114 and Lot 6 DP1158627 for recreational uses.
(c) to ensure that sand mining is controlled and to facilitate the progressive phasing out of sand mining and the rehabilitation of degraded lands,	The Proposal will facilitate the rehabilitation of land degraded by sand mining.
(d) to promote the orderly and economic development of land within the zone subject to the provision of adequate water and sewerage services and the disposal, in an environmentally sensitive manner, of all wastes and stormwater from the land,	Water is already available at the Breen Site. No increase in demand is proposed as part of the Proposal. Services will be reticulated through the Breen Site as required to accommodate the new amenities. The Breen Site will be connected to sewer.
(e) to promote, enhance and utilise the development potential of the zone primarily for tourism, recreation or industrial parks, where this is consistent with the conservation of the unique, ecological and landscape attributes of the Kurnell Peninsula, and	Lot 5 DP1158627 will remain as an industrial-like land use, which will facilitate the rehabilitation of land at Lots 1122 and 1123 DP794114 and Lot 6 DP1158627 for recreational uses.
(f) to promote the sharing of the responsibility for environmental planning by creating a broad framework of controls and requiring the Council to adopt development control codes or design and management guidelines applying to development in the zone.	No development control code or design and management guideline applies to the Breen Site.

5.2.2 State Environmental Planning Policy (Infrastructure) 2007

Division 23 of the *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP) relates to **Waste or resource management facilities**, and defines the following types of facilities:

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 the 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 by landfill or incineration.

...

waste disposal facility means a facility for the disposal of waste by landfill, incineration or other means, including associated works or activities such as recycling, resource recovery and other resource management activities, energy generation from waste gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

...

waste or resource transfer station means a facility for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

The Proposal would constitute a **resource recovery facility** under the Infrastructure SEPP. Under Clause 121 the Proposal would be permitted with consent if it were in a prescribed zone – being RU1, RU2, IN1, IN3, SP1, SP2 or a land use zone that is equivalent to any of those zones.

The Breen Site is zoned 7(b) Special Development under the Kurnell SEPP, which is not considered to be equivalent to any of the prescribed zones. However, Clause 121(3) of the Infrastructure SEPP includes the following provision:

Development for the purpose of the recycling of construction and demolition material, or the disposal of virgin excavated natural material (within the meaning of Schedule 1 to the Protection of the Environment Operations Act 1997) or clean fill, may be carried out by any person with consent on land on which development for the purpose of industries, extractive industries or mining may be carried out with consent under any environmental planning instrument.

The 7(b) Special Development Zone under the Kurnell SEPP permits a range of development types, including industry (other than extractive industries, hazardous industry or storage establishments; offensive industries; toxic industries). As such, under Clause 121(3) of the Infrastructure SEPP, the proposed resource recovery facility component to the extent that it is for the purposes of the recycling of construction and demolition material, would be considered to be permissible development.

The Proposal is also identified as traffic generating development within Schedule 3 of the Infrastructure SEPP as it is defined as a “landfill, recycling facilities, waste transfer station of any size or capacity with access to any road”. Therefore, the Transport for NSW is required to be notified of the development application, and any submission made by the RMS within 21 days of the notification regarding the project is required to be taken into consideration.

5.2.3 State Environmental Planning Policy (State and Regional Development) 2011

The SRD SEPP identifies SSD through a range of triggers and thresholds.

Clause 8 of the SRD SEPP identifies that if the development is specified in Schedule 1 or 2, the development is declared to be SSD.

Clause 23 of Schedule 1 of the SRD SEPP identifies that waste and resource management facilities are SSD, specifically Clause 23(3):

(3) Development for the purpose of resource recovery or recycling facilities that handle more than 100,000 tonnes per year of waste.

As the proposed resource recovery facility will handle more than 100,000 tonnes per year of waste (with the capacity for up to 500,000 tonnes per annum), that component of the Proposal is SSD.

Further, under Clause 8(2) of the SRD SEPP, if only part of a proposed development is SSD, the remainder is also declared to be SSD:

8 Declaration of State significant development: section 4.36

- (2) *If a single proposed development the subject of one development application comprises development that is only partly State significant development declared under subclause (1), the remainder of the development is also declared to be State significant development, except for—*
- (a) *so much of the remainder of the development as the Director-General determines is not sufficiently related to the State significant development.*

As the resource recovery facility component of the Proposal is SSD, all of the related components of the Proposal (being the landfilling, as well as the earthworks and site reprofiling, and the development of the parklands) are also declared as SSD. This is because, as previously identified, the four components of the development are highly integrated and critically reliant on each other in order to achieve the overall project objectives. In particular, the resource recovery facility has been carefully designed to respond to a very specific combination of waste streams received at the Breen Site as well as a clear understanding of the beneficial reuse opportunities on the Breen Site.

The resource recovery opportunities available as a result of the parklands component of the Proposal will ensure that Breen can maximise the efficiency of the resource recovery facility, enabling high levels of beneficial reuse of waste materials and minimising the need to dispose of residual materials. In this way scarce landfill capacity will be optimally used for residual unrecoverable materials. The four integrated components of the Proposal are necessarily connected at an operational and commercial level, as well as in relation to land management to ensure the timely delivery of high quality activated recreational space and publicly accessible parklands.

5.2.4 State Environmental Planning Policy (Coastal Management) 2018

State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP) recently came into effect and applies new controls to land in close proximity to sensitive coastal areas. A very small part of the Breen Site is mapped under the Coastal Management SEPP as being within the 'Proximity Area for Coastal Wetlands' and the 'Proximity Area for Littoral Rainforests' (i.e. the buffer areas), for mapped wetlands to the north. As such, the Proposal will need to include an assessment that demonstrates it does not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland, or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland. The Breen Site is also within the Coastal Environment Area and the Coastal Use Area. The matters for consideration for these areas that are specified within clauses 13 and 14 of the Coastal Management SEPP will be considered and assessed in the EIS.

5.2.5 State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

Dangerous Goods will not be stored on-site in volumes that exceed the thresholds set out in the Department of Planning's *Applying SEPP 33* guideline. As such, the Proposal is not expected to be characterised as a potentially hazardous development and a Preliminary Hazard Analysis is not expected to be required as part of the EIS. A preliminary screening of Dangerous Goods will be provided in the EIS to confirm this classification.

5.2.6 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) and its associated contaminated land planning guidelines establish the requirements for the investigation and remediation of contaminated land as part of any development of land in NSW. Clause 7 requires that a consent authority is not to consent to the carrying out of development unless it is satisfied that the land is suitable, or can be made suitable, for its future intended use. The proposed land uses are for the continuation of land restoration activities, a resource recovery facility and parklands.

The EIS will include an appropriate assessment to confirm that the Breen Site is or can be made suitable for the intended use. In particular, the proposed parklands on Lots 1122 and 1123 DP794114 will be located on historical landfill cells of the currently operating Breen Resources Facility. These former landfill cells will be subject of landfill capping and closure auditing requirements of the EPA, which will inform the SEPP 55 assessments as to whether these parts of the Breen Site are suitable for the proposed use.

5.2.7 Sutherland LEP 2015

The current zoning maps accessible on the NSW legislation website for the *Sutherland Shire Local Environmental Plan 2015* (SLEP) identify Lots 1122 and 1123 DP794114 and Lot 6 DP1158627 as being zoned E2 Environmental Conservation and RE1 Public Recreation. We understand that this is an error. These maps show the changes contemplated by *State Environmental Planning Policy (Kurnell Peninsula) Amendment (Zoning) 2010 Delayed Rezoning Sheets 1-7*.

The delayed rezoning maps are not the current zoning for the affected land, but specify what the zoning will be when certain events occur. In this regard, clause 5(4) of the Kurnell SEPP provides that the zoning of land marked "*State Environmental Planning Policy (Kurnell Peninsula) Amendment Zoning 2010 - Delayed Rezoning*" does not have effect until a date specified by the Minister by order published in the Gazette in respect of that sheet. Clauses 5(5) and (6) of the Kurnell SEPP go on to specify the preconditions before the Minister can make such an order, and confirm that until such time as an order takes effect, the zone applying to the land subject of the Delayed Rezoning remains the zone that applied prior to the Delayed Rezoning Maps being gazetted.

Lots 1122 and 1123 DP794114 and Lot 6 DP1158627 therefore remain zoned 7(b) Special Development Zone, as mapped under the Kurnell SEPP zoning map.

Lot 5 DP1158627 is not included in the delayed rezoning maps under the Kurnell SEPP as it was not part of that special delayed zoning regime. Lot 5 is also zoned 7(b) under the Kurnell SEPP. This is confirmed by clause 1.3 of the SLEP which identifies Lot 5 as a "deferred matter" and states that the LEP "does not apply to land identified as "deferred matter".

6.0 Consultation

Breen has been undertaking consultation with Council and its adjoining land owner, Besmaw over time relating to the long-term planning and future vision for the Breen Site. In particular, Breen will continue close consultation with Council in relation to details of the future activation, facilities and infrastructure that will be incorporated into the proposed parklands. This consultation will include discussions as to whether the existing VPA needs to be amended, or whether the Proposal is consistent with the existing VPA.

Breen will continue direct consultation with Besmaw in relation to identifying opportunities to align the strategic land use objectives of the two sites, and to minimise the potential for land use conflict in the longer term if the land uses on the Kurnell Peninsula transition away from sand mining and industry.

Breen has also consulted extensively with the EPA in relation to ongoing and future resource recovery objectives and the environmental performance requirements for waste management facilities. This consultation has led to licence variations in anticipation of this Proposal. This consultation will continue during the preparation of the EIS to ensure the EPA's requirements are factored into the facility's design, including to ensure that environmental mitigation measures have been adopted in the design.

It is anticipated other agencies will be consulted during the preparation of the EIS including Transport for NSW, as well as the Environment, Energy and Science division of the Department of Planning, Industry and Environment. Consultation with relevant agencies during the preparation of the EIS will include meetings and correspondence to clarify assessment requirements for technical investigations and studies, as well as to discuss mitigation measures that may be incorporated into the design of the facility.

Breen has met and discussed the long-term plan for the site, including the development of parklands, the modification of the landform on lot 5, and the location of resource recovery activities to the proposed location on lot 5 east.

Breen has also consulted with the local Greenhills Beach residential community, which has indicated broad support for the consolidation of resource recovery facilities to the eastern part of the Breen Site, as proposed as part of this Proposal. Breen will continue to consult with the local community to understand its desires and expectations in relation to the ongoing waste management operations, as well as the new parklands.

In light of the above, Breen has complied with the “pre-proposal” community engagement required by the NSW Department of Planning, Industry and Environment’s Community Participation Plan, and will continue to comply with the Community Participation Plan throughout the Proposal process.

7.0 Preliminary Environmental Assessment

Preliminary assessment of environmental and planning issues in order to identify key issues likely to require detailed assessment in the EIS.

7.1 Stormwater and Water Quality

The eastern part of Lot 5 DP1158627 that is generally pervious in its current state. Apart from some isolated material stockpiles, this part of the Breen Site is generally situated lower than the ground levels around the boundary. As a result, and due to the pervious nature of the Breen Site, rainfall does not currently generate surface water runoff across the boundary. Rather, it ponds on the site and either evaporates or infiltrates through the underlying material, which is typically sandy.

A stormwater drainage strategy will be developed that seeks to replicate existing flow paths across the Breen Site. The stormwater drainage strategy will be developed in consultation with Sutherland Shire Council and with consideration of the stormwater management objectives set out in the Sutherland Shire Development Control Plan 2015.

For the resource recovery facilities on Lot 5 DP1158627, this stormwater drainage strategy would set out the stormwater quality controls to capture and contain sediments and nutrients from sealed pavements and any roof areas, and to capture and contain oil and grease runoff from the proposed car park and sealed access roads. Pits and pipes would be designed for 5 year ARI peak flow, whereas swales and infiltration systems would be designed for 20 year ARI peak flow, with major system drainage for overland flow designed for 100 year ARI peak flow.

During the works erosion and sediment control measures will be implemented in accordance with *Managing Urban Stormwater – Soils and Construction* (Landcom, 2004).

The parkland and open space landform on Lots 1122 and 1123 DP794114 and Lot 6 DP1158627 will result in modified local catchment boundaries within the Breen Site, which will in turn modify the Breen Site’s contribution to stormwater runoff into the surrounding catchments and into adjoining lands. The EIS will therefore also include an assessment of the impact of the new parkland landform on the surface water runoff regime surrounding the Breen Site. Where required, basins, swales and other stormwater management devices will be installed throughout the parklands to ensure surface water runoff onto surrounding lands does not have any adverse effect on surrounding land as a result of changes to stormwater flow volumes or flow rates.

7.2 Groundwater

Construction of the resource recovery facility will be undertaken with minimal excavation and soil intrusion, generally limited to minor intrusive activities into the soil for the installation of clay-lined sedimentation basins. It is not considered likely that groundwater will be impacted by the construction of these basins, and an Aquifer Interference Approval is not expected to be required for their construction. It is envisaged this would be confirmed during the design of the development, and measures would be implemented to minimise the risk for impacts to groundwater quality.

Groundwater monitoring is currently carried out for the ongoing operation of the Breen Resource Facility. The results of this groundwater monitoring will be provided in the EIS in order to explain the existing groundwater

regime, to identify any risks to groundwater as a result of the Proposal, and to specify recommended controls if needed and to the groundwater monitoring regime as a result of the Proposal.

7.3 Ecology

The Proposal will be carried out on land that has been subject of extensive landform modification from historical sand mining activities and which is currently cleared of significant native vegetation. Further, the Breen Site is not identified on the Biodiversity Values Map and Threshold Tool (searched 29 November 2019) as containing any native vegetation with significant biodiversity value. As such, it is unlikely that the Breen Site contains any threatened species, populations or communities or habitat for any threatened species. Ecological surveys will be carried out as part of the EIS to verify the biodiversity values at the Breen Site. If the surveys confirm that the Breen Site is devoid of biodiversity values, then a BDAR waiver will be requested. Otherwise, a BDAR will be prepared and submitted with the EIS in accordance with the *Biodiversity Conservation Act 2016*.

7.4 Non-Indigenous Heritage

Searches of the Australian Heritage Database, State Heritage Register, State Heritage Inventory and Schedule 5 of the SLEP have been carried out (on 29 November 2019) to identify heritage items and heritage conservation areas in the vicinity of the Breen Site.

The Breen Site does not contain any heritage items and is not located within a heritage conservation area. Further, it is a heavily remodelled and degraded dune-scape, which has been subject of extensive historical sand mining activities and is not likely to contain any areas or items of particular heritage value.

However, the searches of the Australian Heritage Database, State Heritage Register, State Heritage Inventory, and SLEP identify that the Breen Site is located in close proximity to a number of significant heritage items, as follows:

- The 'Cronulla sand dune and Wanda Beach coastal landscape' (SLEP Item No. 2502) which is also listed on the State Heritage Register (SHR No: 01668). The Cronulla Sand Dune and Wanda Beach coastal landscape has both a historical and contemporary cultural significance for the Aboriginal community, as well as an historic, scientific, cultural and natural significance as a site of early European contact with indigenous Australians. It also has social significance as a place of recreation and tourism since the late nineteenth century and community activism to protect the dune from sand mining in the later part of the twentieth century, and has been a location for significant Australian films. The Cronulla sand dune is the last major exposed dune in the surrounding landscape.
- The 'Towra Point Nature Reserve and Quibray Bay' (SLEP Item No. 2509) which is also listed on the State Heritage Register (SHR No: 1918), and forms part of the 'Kamay Botany Bay: botanical collection sites' listed on the National Heritage List. The Towra Point Nature Reserve, together with the nearby Kamay Botany Bay National Park, is a rare place demonstrating the continuous history of occupation of the east coast of Australia and contains a valuable research resource relating to Indigenous occupation, the natural history of the State and the early settlement of the colony. Kamay Botany Bay National Park and Towra Point Nature Reserve are also of State heritage significance as they contain rare remnant vegetation and flora communities and are a critical link in the network of parks and reserves that conserve the biodiversity of NSW. Previous archaeological excavations indicate that Kamay Botany Bay National Park and Towra Point Nature Reserve have significance for their high level of archaeological potential, and are also listed in the SLEP as an archaeological site of State significance (A2528) and on the National Heritage List because it contains one of the greatest botanical collections of all time as part of the first landing of the *Endeavour* in Australia..
- Cronulla Sewage Treatment Plant, located to the west of the Breen Site, is listed on the State Heritage Inventory (Database number 4573705) as having significance as the fourth in the series of large sewage treatment plants with ocean outfalls built to service the growing population of Sydney during the twentieth century. The Cronulla Sewage Treatment Plant has some historic and social value relating to its function, and contains a set of equipment and structures that are representative of their period and type.
- A former 'Four wheel drive track' that follows the Captain Cook Drive alignment, which is listed as an archaeological site of local significance (A2523).

Whilst the Breen Site is close to these heritage items, there are no proposed works that would directly impact the fabric of the items, and the Proposal is not expected to result in any significant impact on the heritage or archaeological values of these items compared to the already approved land restoration of Lot 5 under DA/269/90.

However, the Proposal will alter the visual setting and context of the curtilage of these heritage items. As such, the EIS will include a heritage impact assessment to assess impacts of the Proposal on the visual setting and context of adjoining heritage items identified above.

7.5 Indigenous Heritage

A 'basic search' of the Aboriginal Heritage Information Management System (AHIMS), carried out on 27 November 2019, identifies that 10 Aboriginal sites have been recorded in or near the Breen Site. However, the Breen Site has been subject of extensive landform modification from historical sand mining and waste management activities, and which is currently cleared of vegetation and natural features. It is therefore considered unlikely that any Aboriginal sites would currently be present at the Breen Site.

The basic AHIMS search identifies that no Aboriginal places have been declared in or near the Breen Site. Notwithstanding this, it is identified from review of the State Heritage Register that the immediately adjoining 'Cronulla Sand Dune and Wanda Beach Coastal Landscape' have historical and contemporary cultural significance to the Aboriginal community. As such, there may be areas of Aboriginal cultural heritage significance at the Breen Site or on land immediately adjoining the Breen Site.

As part of the EIS, an assessment will be carried out in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales. The due diligence assessment will include an extensive search of the AHIMS register, to understand the nature and location of the 10 previously recorded Aboriginal sites. If further investigations and assessments are required after the due diligence assessment is complete, they will be carried out in accordance with relevant Office of Environment and Heritage guidelines, and an Aboriginal Cultural Heritage Assessment report will also be included in the EIS.

7.6 Visual impacts

The proposed resource recovery facility, land rehabilitation and parkland development will introduce changes to the existing landscape through the introduction of a new landform on the Breen Site as well as new buildings and infrastructure associated with the resource recovery facility. A Visual Impact Assessment would be completed as part of the EIS to provide a detailed assessment of the visual impact of the Proposal, from key surrounding viewpoints. Key viewpoints will be identified based on public areas in close proximity where the Proposal is likely to be highly visible, as well as areas further away that have prominent views towards the Breen Site.

The Visual Impact Assessment would also consider night time views and the impact of lighting from the resource recovery facility on the visual amenity of the surrounding area.

In order to visually screen the resource recovery facility from surrounding roads and recreational areas, the Proposal will include a vegetated raised mound around the perimeter. The Visual Impact Assessment would specify what parameters this mound should achieve as well as landscaping requirements. Where necessary, the Visual Impact Assessment would specify further mitigation measures required to reduce identified visual impacts.

7.7 Traffic

Captain Cook Drive is a local, unclassified road under the care and maintenance of the Council, linking between Taren Point Rd-The Boulevard and Torres Street. The road is configured as two lane total with one lane in each direction separated by a dividing line and a posted speed limit of 80 km/hr.

Lindum Road is a local, unclassified road under the care and maintenance of the Council. This road connects Captain Cook Drive at an existing round-about, and provides access to Playing Field No. 1 as well as the existing sand mining operation on the site to the east (access to Boat Harbour is also via the sand mining site, and is also currently accessed via Lindum Road). The road is configured as two lane which is not separated by a dividing line, and a speed limit of 50 km/hr.

The Proposal is not expected to result in any substantive change to the number of vehicles currently accessing the Breen Site. However, the access location for the Breen Site is proposed to be relocated to a new driveway off Lindum Road, meaning the Proposal will result in an increase in the number of vehicles using Lindum Road.

A Traffic Impact Assessment would be prepared for inclusion in the EIS, to assess the impacts of traffic movements to and from the Breen Site, and to determine whether the additional traffic on Lindum Road will affect the operational efficiency and safety of the road network. The Traffic Impact Assessment will also assess car parking provision at the resource recovery facility.

7.8 Air Quality

An Air Quality Impact Assessment would be prepared in accordance with the EPA's Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales, including identification of the existing meteorological conditions and background concentrations of air pollutants.

The most significant dust generating activities during the operation of the Proposal are expected to be wheel generated dust, material handling, and wind erosion. In order to reduce air quality impacts, the resource recovery facility will include enclosure or partial enclosure of recycling plant and processing equipment. The Air Quality Impact Assessment would also include an assessment of odour in accordance with the EPA's Assessment and Management of Odour from Stationary Sources in NSW. Where necessary, the Air Quality Impact Assessment would specify further mitigation measures required to reduce identified air quality impacts.

The Air Quality Impact Assessment would also consider the future land uses on adjacent land once any planning proposal for rezoning has been exhibited.

7.9 Noise and Vibration

Sources of operational noise from the Proposal would be from customer vehicles accessing the facility, as well as noise from the waste management activities associated with the resource recovery facility, landfilling on Lot 5 and parkland development on Lots 1122 and 1123 DP794114 and Lot 6 DP1158627. A Noise Impact Assessment would be prepared in accordance with the EPA's Noise Policy for Industry, and would include assessment of road traffic noise in accordance with the NSW Road Noise Policy.

In order to reduce noise impacts, the resource recovery facility will include enclosure or partial enclosure of recycling plant and processing equipment. Where necessary, the Noise Impact Assessment would specify further mitigation measures required to reduce identified noise impacts.

The Breen Resources Facility is already subject of existing noise management measures, and it is highlighted that in the most recent annual return to the EPA, no noise complaints were reported.

The Noise Impact Assessment would also consider the future land uses on adjacent land once any planning proposal for rezoning has been exhibited.

7.10 Waste Management

Whilst the Proposal will contribute to resource recovery rates from the building and construction sector, residual waste will be generated during both construction and operation. A Waste Management Plan will be prepared and submitted with the EIS to outline the management and monitoring of the waste generated as part of the Proposal. The Waste Management Plan will identify the types of waste to be generated, how they will be stored, recycled or disposed (on and off-site, where appropriate), including collection points, and method of removal, for both the construction and operation stage.

7.11 Previously Landfilled Areas

The Breen Site has historically been used for sand mining and waste management activities. The EIS will include further assessment to confirm that the Breen Site is suitable in its current state for the future intended uses and satisfy the consent authority that clause 7 of SEPP55 is met. In particular, the proposed parklands on Lots 1122 and

1123 DP794114 will be located on historical landfill cells of the currently operating Breen Resources Facility. These former landfill cells will be subject of landfill capping and closure auditing requirements of the EPA, which will inform the environmental assessments as to whether these parts of the Breen Site are suitable for the proposed use, and whether ongoing management of the previous landfilled waste is required.

7.12 Fire Risk

Whilst the Breen Site is largely devoid of vegetation, it is surrounded by substantial stands of vegetation to the west and south. Due to this existing vegetation there is a risk of bushfire, especially during dry summer months. The Breen Site includes land around on western and southern boundaries that is designated as Category 1 Vegetation on the Sutherland Bushfire Prone Land Map. As such the EIS will address the relevant provisions of the NSW Rural Fire Service's *Planning for Bush Fire Protection*.

Also the EIS will address the recently finalised fire safety guidelines for waste facilities (NSW Fire and Rescue, October 2019) for the portion of waste that is potentially combustible that is proposed to be accepted, processed and temporarily stored on the Breen site.

7.13 Hazards

The EIS will document all dangerous goods expected to be stored at the Proposal and provide details of storage volumes and location in order to undertake a preliminary screening assessment in accordance with the requirements of *State Environmental Planning Policy Number 33 Hazardous and Offensive Development* (SEPP 33). The Proposal will not require the storage and handling of dangerous goods in excess of the screening thresholds set out in the *Applying SEPP 33* guideline, and so a Preliminary Hazards Analysis is not expected to be required. The EIS will be accompanied by a Screening Assessment to confirm that a Preliminary Hazards Analysis is not required for the development.

8.0 Conclusion and Next Steps

This submission provides information to assist in the preparation of the Secretary's Environmental Assessment Requirements to inform the preparation of an EIS for the Proposal on the Kurnell Peninsula.

The Proposal represents a significant opportunity to enhance the resource recovery capabilities of the Breen Site, improving resource recovery and reducing disposal of residual materials to occupy scarce landfill capacity, as well as to provide open and publicly accessible parkland to the Sutherland Shire.

The issues discussed in this report are considered to represent the key environmental considerations associated with the Proposal to inform the Secretary's Environmental Assessment Requirements.

It is therefore requested that the Secretary issues the requirements for the preparation of an EIS for a SSD for the Proposal.