



planning consultants

11 June 2021  
Our Ref: 5989E.4KM(SRPT)

Mr David Schwebel  
NSW Department of Planning, Industry and Environment  
GPO Box 39  
Sydney NSW 2001

**By Email:** David Schwebel [David.Schwebel@planning.nsw.gov.au](mailto:David.Schwebel@planning.nsw.gov.au)

Dear David,

**RE: Scoping Report – Proposed Section 4.55 Modification - MP 07\_0048  
Enviroking Liquid Waste Facility Project  
843 John Renshaw Drive, Black Hill**

## **1.0 Introduction & Background**

DFP Planning has been engaged by Enviroking Pty Ltd (Enviroking or the Applicant) to prepare a s4.55 modification application in respect of Development Consent MP 07\_0048 for the Enviroking Liquid Waste Facility Project at 843 John Renshaw Drive, Black Hill (the Site).

Further to our discussions and correspondence with you in late 2020, this letter constitutes a Scoping Report in order to obtain DPIE's requirements under Clause 3 of Schedule 2 of the *Environmental Planning and Assessment Regulation 2000* (the EP&A Regulation) in respect of the mooted s4.55 modification application.

The proposed modification relates to the "processing" limits of the existing facility and seeks to modify Condition 6 of Schedule 2 of the Development Consent to increase the quantity of waste to be processed, treated or handled at the Site from 20,000 tonnes to 30,000 tonnes per annum.

Matters relating to the Site, the approved development, the proposed modification, permissibility, and associated impacts and justifications are discussed below.

## **2.0 Site Description**

The Site is located within the Cessnock LGA, approximately 20 kilometres east of Cessnock and 21 kilometres north-west of Newcastle CBD (see **Figure 1**).

The Site is legally described as Lot 931 DP 816814, is known as 843 John Renshaw Drive, Black Hill and has an area of 60.21 hectares.

The Site is bounded by John Renshaw Drive to the south, Bloomfield Collieries Open Cut Mining operation to the north and Donaldson Mine to the east. Smaller rural holdings are located to the south of John Renshaw Drive (see **Figure 2**).

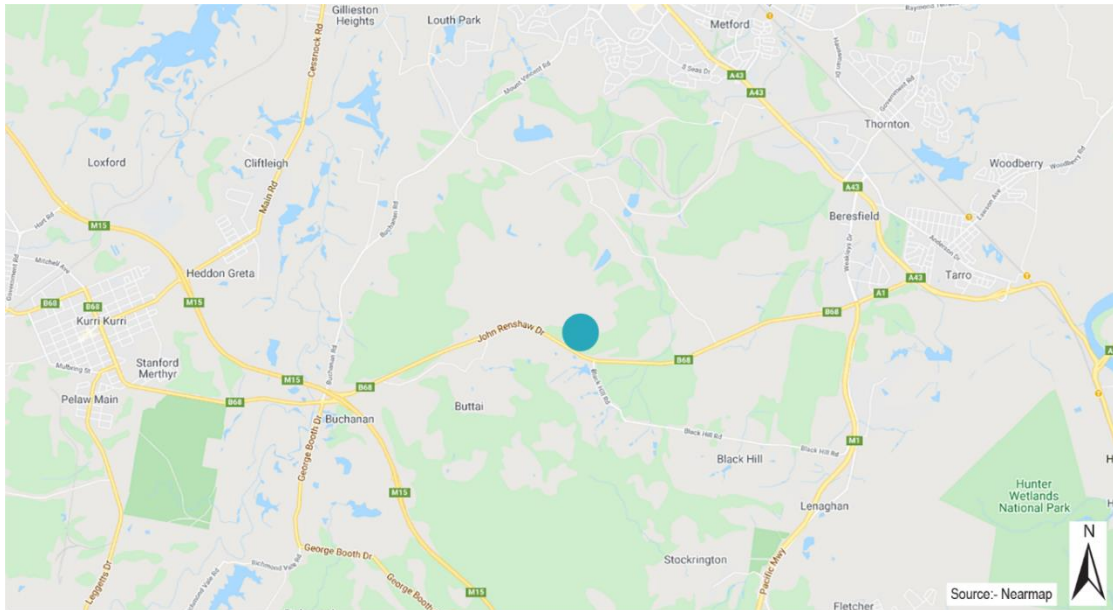


Figure 1: Site Location



Figure 2: Aerial photograph of the Site and surrounding properties.

The Site is predominantly covered with native vegetation except for a cleared area near the centre of the property where a complex of buildings, plant and machinery associated with the approved operations are located. A cleared driveway connects this complex of buildings to John Renshaw Drive.

### 3.0 Approved Development

On 1 August 2010, MP07\_0048 was approved by the delegate of the Minister for Planning and permitted the Site to “process” up to 20,000 tonnes of liquid waste per year (see **Attachment 1**). Condition 6 under Schedule 2 of the Project Approval is as follows:

6. The Proponent shall not:
- process more than 20,000 tonnes per year in total of waste; and
  - cause, permit or allow any waste generated outside the site to be received at the site for storage, treatment, processing, reprocessing or disposal, or any waste generated at the site to be disposed of at the site, except as may be expressly permitted by an EPL, for the development, or an exemption under the *Protection of the Environment Operations (Waste) Regulation 2005*.

**Note:** The above condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the site if it requires an EPL under the *Protection of the Environment Operations Act 1997*.

On 31 July 2020, by notice in Government Gazette No. 166, MP07\_0048 was declared to be State Significant Development (SSD) under clause 6 of Schedule 2 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

Consequently, on the making of the declaration, the MP07\_0048 ceased to be a Part 3A Project and is now taken to be a development consent under Part 4 of the EP&A Act.

Accordingly, the relevant provisions for modification of the development to which the Consent relates are those contained within s4.55 of the EP&A Act.

On 12 October 2020, a s4.55 modification application was approved relating to the approved hours of operation for truck movements to the Site (see **Attachment 2**).

#### 4.0 Existing Licences and Approvals

In addition to the Consent, the Site operations are subject to the following Environment Protection Licences (EPLs):

- EPL 11180 – which permits waste processing (non-thermal treatment) up to 20,000 tonnes per annum and waste storage (see **Attachment 3**); and
- EPL 11245 – which permits the transport of trackable waste (see **Attachment 4**).

The proposed modification will require EPL 11180 to also be modified.

#### 5.0 Proposed Modification and Justification

##### 5.1 Proposed Modification

The approved waste facility receives and treats oily or greasy waste waters from businesses such as motor vehicle workshops, restaurants, food halls, canteens and food processing facilities, as these types of waste are not treatable by public sewage treatment plants (STPs).

The waste is collected from businesses (mainly urban areas such as Newcastle), generally during the evening and early morning (i.e. outside of business peaks) using vacuum capable vehicles (i.e. trucks fitted with a pump and reservoir tank).

These vehicles then deliver the liquid waste streams to the Site where waste is decanted via gravity feed into holding tanks, prior to treatment in the processing plant. In some cases, after delivery to the site, unladen vehicles exit the Site for further waste collection.

The processing plant treats the liquid food and grease trap wastes by partial dewatering, producing liquids and dewatered sludges which are then loaded into tanker trucks for transportation off-site for application on agricultural land or land rehabilitation (e.g. mine sites). Industrial liquid wastes are dewatered and solidified for landfill. Both processes produce relatively clean waste water that is trucked for disposal at a public STP.

There will be no change to these approved methods of waste disposal.



The volume of liquid waste has been increased in recent years as a consequence of an increase in residential population in the Hunter Region and therefore, an increase in economic activity associated with liquid food waste, greasy waters from industry and also increased amounts of "drilling mud" from the increased use of hydraulic boring for installation of services in urban and rural environments.

In addition, a waste facility at Kooragang Island ceased treatment and direct land application of grease trap wastes in 2020 meaning that waste that used to be taken to that facility is being brought to the Enviroking Site at Black Hill or, due to the current 20,000 tonne per annum limit, is being trucked to Sydney then on to Marulan for land application. This equates to a round trip of approximately 630km to dispose of waste generated in the Hunter Region.

Accordingly, the purpose of the proposed modification is to modify Condition 6 to increase the limit on processing, treating or handling waste to a maximum of 30,000 tonnes per annum to accommodate some of the increased demand.

The increase in throughput can be accommodated using the existing equipment and storage tanks on the Site and therefore, the proposal does not include any new buildings, alterations or additions to existing building or new plant/equipment.

## 5.2 Justification

The existing facility provides an essential service not provided by public utilities and due to recent closures of other such facilities, the proposed modifications will enable waste from the Hunter Region to be processed, treated and handled at the Site instead of requiring transport of that waste over long distances to Sydney and other areas, at considerable transport and other environmental cost.

The existing facility is capable of handling the additional waste without any change to existing approved buildings other than perhaps some internal storage tank adjustments and without any changes to hours of operation and the minimal additional traffic during daytime hours is considered to have minimal traffic, safety or noise impacts.

## 6.0 Statutory Provisions

The following legislation and policies are relevant to the proposal and are addressed in more detail below:

- The EP&A Act and the *Environmental Planning and Regulation 2000* (the EP&A Regulation);
- Hunter Regional Plan 2036;
- NSW Waste Avoidance and Resource Recovery Strategy 2014-21;
- *State Environmental Planning Policy (State and Regional Development) 2011* (the SEPP SRD);
- *State Environmental Planning Policy (Infrastructure) 2007* (SEPP Infrastructure);
- *Cessnock Local Environmental Plan 2011* (the LEP); and
- Cessnock Development Control Plan 2013 (the DCP).

## 6.1 Environmental Planning and Assessment Act 1979

### 6.1.1 Section 4.55 of the Act

Section 4.55 of the EP&A Act contains the provisions that must be considered by a consent authority in determining an application to modify a Notice of Determination. In this regard, the relevant section is s4.55(1A) of the EP&A Act.

Section 4.55(1A) of the Act applies to modifications where a minimal environmental impact may occur. Specifically, s4.55(1A) provides that a number of matters be addressed, as discussed below:

***“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the Regulations, modify the consent if:***

***(a) It is satisfied that the proposed modification is of minimal environmental impact”***

The proposed modification is considered to have minimal environmental impact for the following reasons:

- There will be no additions to or enlargement of the approved buildings on the Site with any storage tank adjustments capable of being accommodated with the existing buildings;
- There will be no change to the approved hours of operation; and
- Any additional traffic related to the increased throughput will occur during daytime hours and is unlikely to result in significant adverse traffic or noise impacts.

***“(b) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”***

The proposal does not seek to alter the approved land use and comprises no significant change to the approved buildings, approved hours of operation or types of waste to be handled. Accordingly, the development as proposed to be modified is considered to be substantially the same development as the development for which the consent was originally granted.

***“(c) It has notified the application in accordance with:***  
***(i) The Regulations, if the Regulations so require, or***  
***(ii) A development control plan, if the consent authority is a Council that has made a development control plan that requires the notification or advertising of applications for modifications of a development consent,”***

The proposed modification application may be notified by the DPIE.

***“(d) It has considered any submissions concerning the proposed modification within any period prescribed by the Regulations or provided by the development control plan, as the case may be”***

Should DPIE notify the subject application in accordance with s4.55(1A)(c), it must consider any submissions made during a notification period.

Subsections (1) and (2) of s4.55 would not apply to the proposed modification application. A preliminary environmental assessment as required by subsection (3) is addressed in Section 7.0 of this report.

### 6.1.2 Clause 115 of the EP&A Regulation 2000

The matters required to be addressed under to cl115(1) of the Regulation can be addressed as part of the formal s4.55 modification application.

### 6.2 Hunter Regional Plan 2036

The Hunter Regional Plan 2036 applies to land comprising the Site although the plan does not contain any specific Goals or Directions relating to liquid waste treatment or disposal. Notwithstanding, the proposed modification will enable the approved facility to provide additional services to urban centres and to assist to reduce long distance transport of waste.

### 6.3 NSW Waste Avoidance and Resource Recovery Strategy 2014-21

The NSW Waste Avoidance and Resource Recovery Strategy 2014-21 (NSW EPA, 2014) sets targets for avoiding and reducing waste, increasing recycling rates, diverting more waste from landfills, managing problem wastes and reducing litter and illegal dumping.

The proposed modifications will support these targets by enabling the approved facility to process and reuse or dispose of additional liquid waste and assist to reduce long distance haulage of liquid wastes and reduce consequential environmental impacts.

### 6.4 State Environmental Planning Policy (State and Regional Development) 2011

Pursuant to clause 8 and Schedule 1 cl23(6)(a) of the SRD SEPP the following is deemed to be SSD:

- (6) *Development for the purpose of any other liquid waste depot that treats, stores or disposes of industrial liquid waste and—*
  - (a) *handles more than 10,000 tonnes per year of liquid food or grease trap waste, or*
  - (b) *handles more than 1,000 tonnes per year of other aqueous or non-aqueous liquid industrial waste.*

Notwithstanding that the approved development has been declared to be SSD by virtue of the notice in Government Gazette No. 166, it is noted that the existing facility handles more than 10,000 tonnes per annum of liquid food, grease trap or industrial waste and would qualify as SSD pursuant to Schedule 1 cl23(6)(a) of the SRD SEPP.

### 6.5 State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

Clause 104 and Schedule 3 of SEPP Infrastructure relate to traffic generating development (other than educational establishments) and certain proposals trigger a requirement for referral to the RMS.

The proposed development will trigger referral to the RMS as it involves a waste management facility. Accordingly, the modification application will include a Traffic Impact Assessment to consider potential traffic network impacts associated with the truck movements.

However, it is envisaged that there will be no change required to the hours of operation or number of vehicle trips permitted outside of daytime hours (in line with the s4.55 modification approved in October 2020) and therefore, the traffic impact is expected to be minimal.

Accordingly, it is not considered necessary to consult with the RMS prior to lodgement of the application.

## 6.6 Cessnock Local Environmental Plan 2011

### 6.6.1 Clauses 2.2-2.3 – Zoning and Permissibility

Clause 2.2 and the Land Zoning Map of the LEP provide that the entire Site is zoned RU2 Rural Landscape (as is all surrounding land) and Clause 2.3 sets out the objectives of this zone as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To enable other forms of development that are associated with rural activity and require an isolated location or support tourism and recreation.*
- *To ensure that the type and intensity of development is appropriate in relation to the rural capability and suitability of the land, the preservation of the agricultural, mineral and extractive production potential of the land, the rural environment (including scenic resources) and the costs of providing services and amenities.*
- *To maintain and enhance the scenic character of the land.*
- *To ensure that development does not create unreasonable or uneconomic demands for the provision or extension of services.*
- *To minimise the visual impact of vegetation clearing in order to be consistent with the rural character of the locality.*
- *To minimise disturbance to the landscape from development through clearing, earthworks, access roads and construction of buildings.*
- *To ensure development does not intrude into the skyline when viewed from a road or other public place.*

The proposed modification is not inconsistent with these objectives as it does not involve any expansion to buildings or change to vegetation and merely relates to the throughput of the approved development.

The following is an extract of the zoning table for the RU2 Zone (underline emphasis added):

#### **2 Permitted without consent**

*Extensive agriculture; Home occupations; Horticulture*

#### **3 Permitted with consent**

*Aquaculture; Cellar door premises; Dual occupancies; Dwelling houses; Environmental protection works; Farm buildings; Health consulting rooms; Home industries; Hospitals; Neighbourhood shops; Pubs; Restaurants or cafes; Roads; Roadside stalls; Rural supplies; Self-storage units; Any other development not specified in item 2 or 4*

#### **4 Prohibited**

*Boat building and repair facilities; Car parks; Charter and tourism boating facilities; Commercial premises; Depots; Entertainment facilities; Exhibition homes; Exhibition villages; Freight transport facilities; Health services facilities; Heavy industrial storage establishments; Heliports; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Moorings; Mortuaries; Passenger transport facilities; Recreation facilities (indoor); Residential accommodation; Restricted premises; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wharf or boating facilities; Wholesale supplies*

As waste management facilities are not listed as a prohibited land use, the approved development and the proposed modification are permissible with development consent in the RU2 Zone.

No other provisions of the LEP are considered relevant to the proposed modification as it does not include any new buildings and does not require any additional or augmented essential services or infrastructure.

## **6.7 Cessnock Development Control Plan 2010**

Cessnock Development Control Plan 2010 applies to the Site although pursuant to Clause 11 of SEPP SRD, DCPs (whether made before or after the commencement of the SEPP) do not apply to SSD.

Notwithstanding, it is our preliminary assessment that there are no provisions of the DCP that are directly relevant to the proposed modification.

## **7.0 Preliminary Impact Identification and Assessment**

The proposed modification relates solely to the throughput of the facility and will not require any new buildings or change to the approved hours of operation.

There is considered to be a low level of impact and risk associated with the proposed modification as the potential environmental impacts can be managed appropriately through operational management measures.

### **7.1 Traffic Impacts**

The Traffic Impact Assessment prepared by TPK & Associates (TPK) in July 2008 that accompanied the original Part 3A Project Application projected a daily trip generation of 46 two-way vehicle movements, including 26 associated with trucks and 9 peak truck trips (for 20,000 tonnes per annum).

The 2020 s4.55 modification application relating to operating hours highlighted that approximately half of these trips would occur prior to 7am, meaning that only 13 trips might be expected between 7am and 5pm.

The proposed s4.55 modification only seeks to receive and transfer waste during the hours of 7am and 5pm – i.e. no increase to truck movements prior to 7am – and accordingly, it is considered that any additional truck movements would be in excess of the 13 trips currently estimated for the daytime use of the facility.

A 50% increase in throughput to 30,000 tonnes per annum might be expected to result in a commensurate increase in truck movements equating to 13 additional truck trips, with all of these to occur between 7am and 5pm – i.e. 1.3 additional truck movements every hour. Based on 9 peak vehicle trips, this may mean an additional 4-5 trips in the peak hour.

This is considered to be an insignificant number of truck movements in the context of the regional road network and is unlikely to result in any adverse traffic impacts. Notwithstanding, a traffic report will be prepared as part of the modification application.

### **7.2 Acoustic Impacts**

The Noise Impact Assessment that was lodged with the 2020 s4.55 modification application assessed that an additional 4-5 additional truck movements in the “night-time” period (i.e. 10pm to 7am) would not result in any exceedances of project specific noise criteria.

Accordingly, it is unlikely that an additional 4-5 peak truck movements during the daytime (i.e. 7am to 6pm) would result in an adverse acoustic impact.

Notwithstanding, an acoustic statement will be prepared as part of the modification application to address the potential noise impacts arising from the use of the on-site treatment plant and the use of regional roads by trucks.



## **8.0 Air Quality**

### **8.1 Odour**

The proposed modification does not involve or require any change to the existing buildings, plant or equipment.

Accordingly, the original assessment and determination that the potential for odour impacts is minimal remains so for the modified proposal, noting that the original assessment assumed 24 hours, 7 days per week operations and the approved facility operates well within these parameters.

### **8.2 Airborne Particulates (Dust)**

The proposed increase in throughput will result in an increase in truck trips which will use the existing gravel access driveway.

Notwithstanding, the existing dust suppression measure of a water tanker spraying this access driveway on an as needs basis will continue and no change is proposed to the existing conditions of approval requiring the *“Proponent shall carry out all reasonable and feasible measures to minimise dust generated by the project”*.

## **9.0 Consultation**

Following the issue of DPIE's requirements, the Applicant will complete any necessary consultation required as part of the preparation of the s4.55 modification application.

In this regard, we note that there were no objectors to the original application other than Cessnock Council although their concerns were in relation to the final location of waste disposal within their LGA, rather than the processing of waste on this Site or truck movements.

Given the minimal environmental impacts envisaged, it is not considered necessary to consult with the RMS although this can be done if required.

## **10.0 Conclusion**

The proposed s4.55 modification seeks to modify the annual throughput under Condition 6 of Schedule 2 to allow up to 30,000 tonnes of waste material to be processed, treated and/or handled at the Site.

The proposal will result in a modified development that is substantially the same as the approved development as it does not change the approved use, there are no new buildings proposed, no changes to the approved hours of operations and no changes to the types of waste handled.

Furthermore, the proposed modifications are considered likely to have only minimal environmental impact and accordingly, the proposal is considered to satisfy the requirements to be assessed pursuant to s4.55(1A) of the EP&A Act.

On behalf of the Applicant, we kindly request that the Secretary of the DPIE issue the requirements for the proposed development to facilitate the preparation of the s4.55 modification application.

If you should have any questions regarding this Scoping Report, please contact the undersigned on 9980 6933.

Yours faithfully  
**DFP PLANNING PTY LTD**

A handwritten signature in black ink, appearing to read 'K. Mackay', with a stylized flourish at the end.

**KENDAL MACKAY**  
**DIRECTOR**

A handwritten signature in black ink, appearing to read 'Stephen Day', with a stylized flourish at the end.

**Reviewed:** \_\_\_\_\_

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|-------------|----|--|
| Attachments | 1. | Project Approval 07_0048 (the Consent) |
|             | 2. | Instrument of Modification MOD2        |
|             | 3. | Environment Protection Licence 11180   |
|             | 4. | Environment Protection Licence 11245   |