

Breen Resource Recovery Facility and Marang Parklands

State Significant Development Assessment Report (SSD-10412)

November 2024





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Assessment Report

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Preface

This report details the Department of Planning, Housing and Infrastructure's (the Department) assessment of the State significant development (SSD-10412) application for the Breen Resource Recovery Facility (the development).

The Department's assessment considers all documents submitted by Breen Resources Pty Ltd (the Applicant), including the Environmental Impact Statement (EIS) and Response to Submissions Report, submissions received from the public and Sutherland Shire Council, advice from government authorities, and all legislation and planning instruments relevant to the site and the development.

The report includes:

- a description of the development and the surrounding environment
- an assessment of the development against government policy and statutory requirements, including mandatory considerations
- an explanation of why the development is SSD and who the consent authority is
- consideration of matters raised by the community and other stakeholders
- an assessment of the likely environmental, social and economic impacts of the development and recommendations for managing any impacts during construction and operation
- an evaluation which weighs up the likely impacts and benefits of the development, having regard to the proposed mitigation measures, community views and government advice and provides a view on whether the impacts are, on balance, acceptable
- a recommendation to the decision-maker, along with the reasons for the recommendation, to assist them in making an informed decision about whether development consent for the development should be granted and any conditions that should be imposed.

Executive Summary

Introduction

Breen Resources Pty Ltd (the Applicant) proposes to construct and operate the Breen resource recovery facility on Captain Cook Drive in Kurnell, in the Sutherland local government area (LGA).

The proposed development (the development) has a capital investment value of \$48.87 million and is expected to generate up to 120 construction jobs and 90 operational jobs.

The development includes a resource recovery facility (RRF), a non-putrescible waste disposal facility (WDF) and the establishment of the Marang Parklands on lands previously utilised for landfilling.

The Applicant is a waste management company that has operated a landfilling and resource recovery operation on the site since 1990 under a development consent granted by Sutherland Shire Council (Council). The landfilling of the site was intended to re-establish the sand dune landform of the site prior to its historical use for sand excavation and establish a public park (Marang Parklands), recreational facilities and playing fields under a Voluntary Planning Agreement (VPA) with Council entered into in 2010. The VPA was originally established to facilitate the development of 33 hectares (ha) of land (land to be zoned E4 – Environmental Living) for the Greenhills Beach residential subdivision by developers Breen and Australand (now Frasers). The VPA required Breen and Australand to deliver the public works and infrastructure in a staged manner from 2010 to 2020. However, to date only three playing fields, a skate park and associated infrastructure have been delivered. The existing waste facility continues to operate within several areas of the Breen landholdings.

On 17 February 2023, the Applicant and Council entered into a new VPA for the delivery and transfer of the Marang Parklands proposed to be constructed under this SSD and other recreational facilities and sporting fields to be constructed under separate Council development applications.

Site Context

The site is located on the Kurnell Peninsula and covers approximately 124 ha of land zoned 7(b) Special Development under the State Environmental Planning Policy (Precincts – Central River City) 2021 (NSW) (CRC SEPP).

The site is presently utilised by the Applicant for landfilling and resource recovery under a development consent granted by Council (DA269/90) and an Environment Protection Licence issued by the NSW Environment Protection Authority (EPA).

Surrounding land uses include playing fields and a skate park to the north, Besmaw Pty Ltd sand mining operations to the east, the Cronulla State Park walking trails to the south, and the Greenhills Beach residential area 700 metres to the south-west.

A planning proposal was submitted for the Besmaw's site on Captain Cook Drive in December 2023 with Council, during the assessment of the Breen SSD, and includes housing, aged care accommodation, commercial, tourism and recreational uses. The planning proposal includes staging that responds to the Breen SSD application, with a landscape masterplan showing infrastructure and open space nearest to the Breen boundary and land adjacent the site to be developed in the fourth stage in approximately 20 years. The planning proposal is under assessment with the Department as the planning authority. Besmaw made two submissions on this SSD application which have been considered as part of the Department's assessment.

Current Proposal

The SSD application seeks development consent for the construction and operation of an RRF to receive and process up to 650,000 tonnes per annum (tpa) of construction and demolition (C&D) waste, commercial and industrial (C&I) waste, and soils. The proposal also includes a WDF located within an existing landfill on the site (Lot 5 landfill) to dispose of residual wastes which cannot be recycled for reuse through the RRF. The final component of the development is the Marang Parklands which would be constructed on the site in part from soils and materials recycled at the RRF. The Marang Parklands would provide a large regional open space area to be owned and maintained by Council (approximately 30 ha). The Marang Parklands would be adjacent and linked to a number of other recreational facilities and sporting fields to be delivered under Council development consents in accordance with the VPA.

Statutory Context

The development is SSD pursuant to section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is for the purpose of a resource recovery facility (RRF) with capacity to process 650,000 tonnes of waste per year, which meets the criteria in clause 23 of Schedule 1 in State Environmental Planning Policy (Planning Systems) 2021 (PS SEPP). While the WDF and the Marang Parklands are not independently State significant, the Applicant has included these components of the development in the SSD application under clause 2.6(2)(b) of the PS SEPP and has contended that they are sufficiently related to the RRF. The Department accepted the full proposal under this SSD application.

Engagement

The Department exhibited the application and accompanying Environmental Impact Statement (EIS) for the development from 6 August 2021 until 6 September 2021 (28 days) and received advice from five government agencies. Council originally objected to the proposal but later withdrew its objection following the execution of the new planning agreement for the delivery of the Marang Parklands. A total of 50 public submissions were received including 38 which objected to the proposal. Issues

raised in the submissions included potential air quality and noise impacts, visual impacts, leachate, groundwater and the delayed delivery of the Marang Parklands.

Government agencies requested additional information or clarification on contamination, biodiversity, leachate, groundwater, waste management and traffic. The EPA requested the Applicant amend the design of the development to fully enclose the waste processing and stockpiling activities. The EPA also requested a review of the contamination assessment by an EPA-accredited Site Auditor and submission of a Site Audit Report (SAR) and Site Audit Statement (SAS) to confirm that the site could be made suitable for a public park.

The Applicant submitted a Response to Submissions (RtS) report on 16 December 2022 which included responses to the issues raised in the submissions and amended plans for the development including the enclosure of waste processing and stockpiling. In response to additional requests made by the Department and the EPA, the Applicant submitted a Remedial Action Plan (RAP) which detailed the remediation program to be followed to ensure the site can be made suitable for open space and the RRF. An Accredited Site Auditor from Senversa reviewed the RAP and previous contamination and groundwater assessments and issued an SAR and SAS on 12 April 2024. The Applicant also submitted a revised Biodiversity Development Assessment Report (BDAR) on 2 May 2024 and 18 October 2024 to address some residual issues raised by the Department of Climate Change, Energy, the Environment and Water (Environment and Heritage Group) (EHG).

Assessment

The Department's assessment of the application has fully considered all relevant matters under section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ecologically sustainable development. The Department has identified the key issues for assessment are visual impacts, leachate and water management, air quality, and contamination. The Department has also assessed other relevant issues, including traffic, noise, Aboriginal cultural heritage, biodiversity, fire and incident management, and consistency with the EPA's Energy from Waste Policy (EfWP).

Visual Impact and Landform

The development, including the construction of the RRF and Lot 5 WDF, has the potential to cause detrimental visual impacts from surrounding public vantage points. The Applicant submitted a Visual Impact Assessment (VIA) in the EIS that was revised in the RtS. The VIA identified only minor visual impacts from the RRF, however found the Lot 5 WDF landform would have moderate to high visual impacts on existing public viewpoints, including a lookout within the Cronulla State Park walking trail to the south which offers views towards the northern horizon including the Sydney CBD city skyline and Botany Bay. The Applicant proposed to compensate for the view loss by providing alternative viewing points from more elevated areas of the proposed Marang Parklands.

To ensure users of the State Park can continue to enjoy views of the Sydney skyline, the Department has recommended conditions that will ensure the new viewing platforms in the Marang Parklands are delivered prior to the views towards the city being impacted from the existing platform. The Department notes the views towards the east and south will continue to be available. Furthermore, the Department has also recommended a condition of consent requiring a pathway to be constructed from the walking trails in the State Park to the Lot 6 parkland and playing fields to ensure access to viewing platforms will remain available to the community. The proposed viewing platforms in the Marang Parklands will also be accessible via walking trails.

The Department's assessment concluded that subject to the implementation of the conditions of consent, the visual impacts of the development would be effectively mitigated.

Air Quality

The development has the potential to cause air quality impacts through the processing and stockpiling of waste, the tipping of waste at the WDF and the manoeuvring of vehicles on site. The Air Quality Impact Assessment (AQIA) submitted in the EIS noted the potential for one day during the year where the 24-hour criteria was exceeded for PM_{2.5} and three days for PM₁₀ at the sporting fields to the north of the RRF. No exceedances of the relevant air quality and odour criteria were predicted at any residential receivers. In response to issues raised by the EPA, Council and some public submissions, the Applicant revised the design of the RRF to enclose the waste processing and stockpiling activities. The enclosure of these areas is expected to reduce the risk of air quality impacts at the sporting fields. The Department considers the proposed dust and odour mitigation and management measures to be appropriate and has incorporated these into recommended conditions. To further manage and mitigate particulate and odour emissions for both the construction and operational stages, the Department has also required the Applicant to prepare an Air Quality Management Plan (AQMP). With these conditions in place, the Department's assessment concluded the air quality impacts of the development would be adequately minimised, monitored and managed.

Leachate, Groundwater and Surface Water Management

The proposed RRF and the construction of the Lot 5 landfill have the potential to produce leachate that, if not properly managed, could pollute groundwater or surface water. The Applicant has provided plans for leachate and stormwater management systems for the WDF, RRF and the Marang Parklands and provided a Groundwater Impact Assessment in the EIS. The Department has carefully reviewed the proposed leachate and stormwater management systems and considered the advice from the EPA and Council and is satisfied the proposed approach is appropriate.

The Department's assessment concluded the potential leachate, groundwater and surface water impacts of the development would be adequately monitored and managed to minimise potential offsite impacts subject to the implementation of the Applicant's management and mitigation

measures, adherence to the requirements of the existing EPL 4608, and the recommended conditions of consent.

Contamination

The proposal includes the construction and operation of a sensitive land use (Marang Parklands) on land which has historically been used for landfilling, posing a risk to future users from the potential impacts of contamination. Following a review of the remedial action plan (RAP), site audit report and the certification of the Site Auditor in the site audit statement that the site can be made suitable for the intended land uses, the Department and the EPA were satisfied that a robust remediation and verification program would be followed by the Applicant. The Department has recommended conditions of consent requiring the implementation of the RAP, preparation of a Long Term Environmental Management Plan, and further SAR and SAS certifying the Site Auditor is satisfied the site has been made suitable for the Marang Parklands and the RRF.

Conclusion

Overall, the Department's assessment has concluded the development:

- includes a remediation programme to ensure the site is suitable for the proposed land uses
- would ensure continued non-putrescible landfill capacity for Sutherland Shire
- would utilise an existing WDF and associated infrastructure, co-located with a new RRF
- would provide a regional parkland for the residents of Sutherland Shire
- would have some impacts which can be mitigated and/or managed to ensure an acceptable level of environmental performance, subject to the recommended conditions of consent.

Consequently, the Department considers the development is in the public interest and is recommended for approval, subject to conditions.

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1 Introduction

1.1 Development Background

Breen Resources Pty Ltd (the Applicant) is seeking development consent for the construction and operation of the Breen Resource Recovery Facility and Marang Parklands at Kurnell (the development).

The Applicant currently operates a waste facility at the site which receives and processes non-putrescible waste to be disposed of within the site. The landfilling emulates the undulating dune landform that existed before sand mining in the Kurnell Peninsula.

The proposed development (the development) involves the construction and operation of a resource recovery facility (RRF) with capacity to process 650,000 tonnes per annum (tpa) of waste, an associated waste disposal facility (WDF) to accept up to 90,000 tpa of residual waste from the RRF, and construction of the Marang Parklands. A detailed description of the development is provided in **Section 2**.

Breen would own and operate the RRF and WDF. The Marang Parklands would be transferred to Sutherland Shire Council (Council) under an existing Voluntary Planning Agreement (VPA).

1.2 Site Description

The site comprises around 90 hectares (ha) of 7(b) (Special Development) zoned land located at Captain Cook Drive in Kurnell, around 4.2 kilometres (km) from Cronulla Station and 16 km from the Sydney CBD (see **Figure 1**) in the Sutherland local government area (LGA).

The site is legally described as Lots 1122 and 1123 DP794114 and Lots 5 and 6 DP1158627.

Site operations currently include resource recovery and landfilling. The site and surrounds are shown in **Figure 2** and the existing site layout is shown in **Figure 3**.

The main vehicle entrance to the site is located on Lot 1123 with access to Captain Cook Drive from a channelised intersection. The site contains an office, workshop, sheds and mobile waste infrastructure. The site also contains large stockpiles of unprocessed and processed waste, some over 30 metres (m) in height.

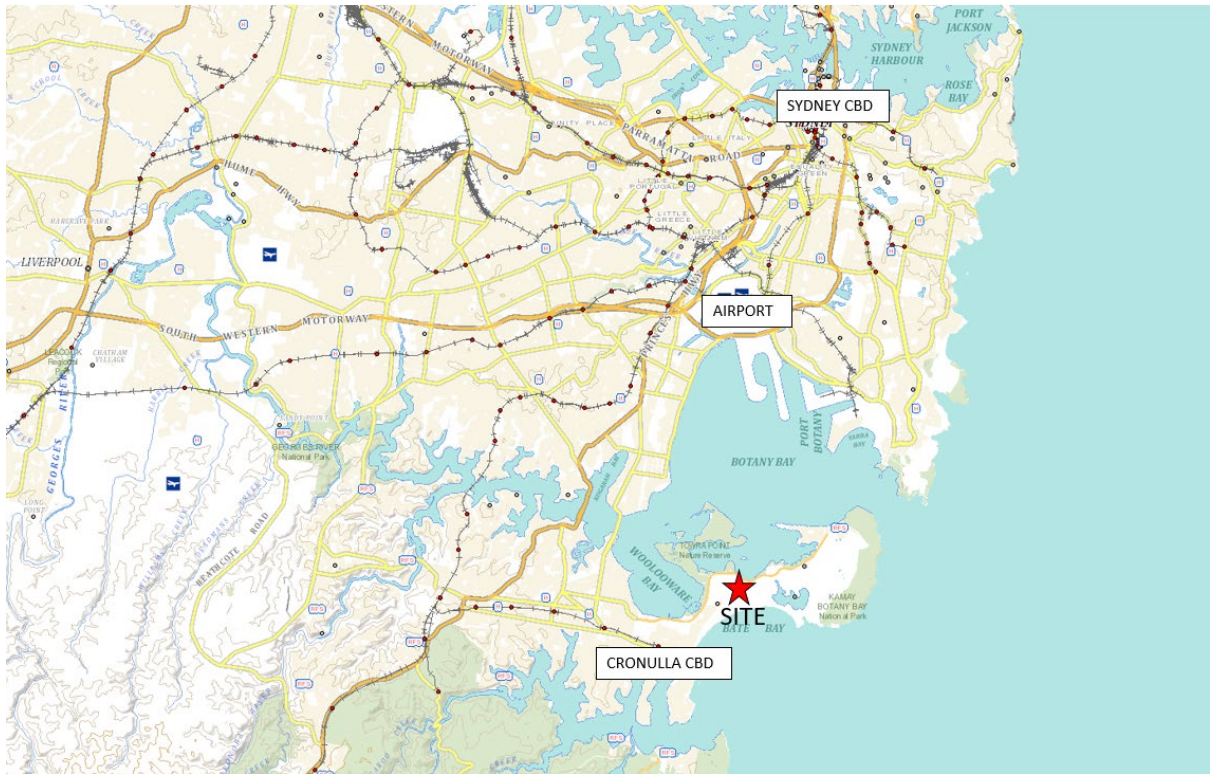


Figure 1 | Regional Context



Figure 2 | Site and Surrounds



Figure 3 | Layout of Existing Breen Waste Facility

1.3 Surrounding Land Uses

The site is located on Captain Cook Drive which connects to Cronulla to the south-west and the Kurnell Village and industrial area to the north-east. The site is located near passive and active recreational areas including a field hockey facility and skate park immediately to the north of the site and Cronulla State Park and walking trails to the south of the site.

The site is also located in proximity to extractive industries and industrial uses to the east, including

- Besmaw sand mining operations to the east, separated by the Lindum Road reserve which is an unformed road used for pedestrian access to Cronulla State Park. The Besmaw land is being progressively mined and backfilled with virgin excavated natural materials
- small industrial allotments 600 m to the east of the site

The nearest residential receivers are located in the Greenhills Beach subdivision which is around 700 m to the south-west of the site (see **Figure 2**).

Besmaw Planning Proposal

In December 2023, a planning proposal was lodged with Council by Besmaw Pty Ltd (Besmaw) for its site at Captain Cook Drive to the east of the Breen SSD site. The planning proposal as lodged with Council covers 210 ha of land and includes housing, aged care accommodation, and commercial, tourism and recreational uses.

In September 2024, the Besmaw planning proposal became a State Assessed Planning Proposal and is currently in the early stages of the rezoning process. A review of detailed environmental studies and agency input will be required to facilitate the assessment of this planning proposal.

The planning proposal includes staging that responds to the Breen SSD application, with land adjacent the site to be developed in the fourth stage in approximately 20 years. The landscape masterplan also responds to the Breen site with infrastructure and open space nearest to the boundary.

Besmaw made two submissions on this SSD application (see Section 5) which have been considered as part of the Department's assessment.

1.4 Existing Approval (DA269/1990)

The existing waste facility operates under a local Council development consent (DA269/1990) with the landfilling and site restoration works occurring over the existing Breen landholdings (the site).

Landfilling on Lot 1122, 1123 and Lot 6 has ceased while the landfilling of Lot 5 is still active.

DA269/1990 requires the final landform of the Breen landholdings to be constructed in accordance with the Kurnell Landfill Landscape Master Plan (referred to as the Hassell Plan – see **Figure 4**).

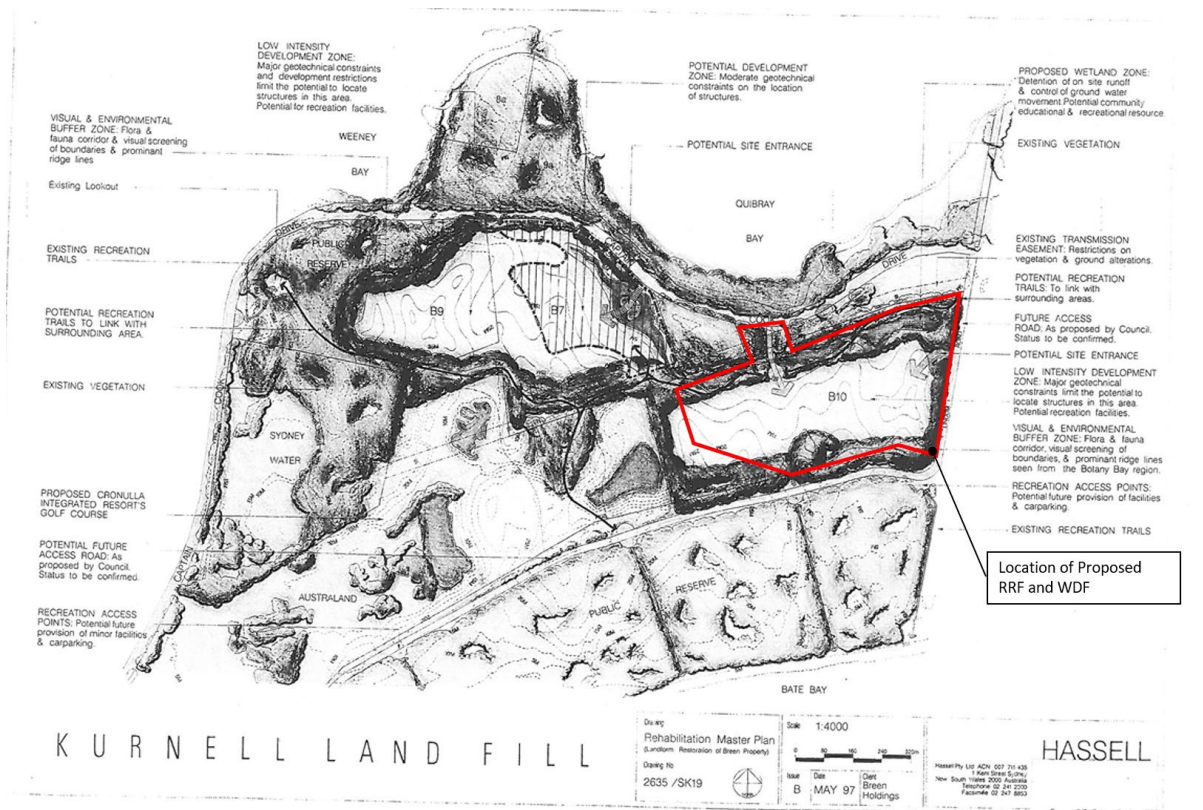


Figure 4 | Regional Context Kurnell Landfill Landscape Master Plan (Hassell Plan) - Approved Plan for Landscaping of Breen Holdings under DA 269/1990

Voluntary Planning Agreement

In 2010, Breen, Australand and Council entered into a VPA to facilitate the development of 33 ha of land (land to be zoned E4 – Environmental Living) for the Greenhills Beach residential subdivision and the following public works and infrastructure:

- land restoration and capping of 91 ha of land to be transferred to Council for the purpose of environmental conservation, public open space (Marang Parklands), and construction of regional recreation facilities including 10 playing fields, a skate park and associated infrastructure
- rehabilitation and landscaping of land previously dredged for sand mining to support an ecological green corridor stretching from Towra Point Nature Reserve to the ocean at Cronulla Beach / Wanda Beach

The subdivision works associated with the Greenhills Beach development were substantially completed in 2017 and dwellings have now been constructed on most of the lots in the subdivision.

The VPA required Breen and Australand to deliver the public works and infrastructure in stages from 2010 to 2020. However, only three playing fields, a skate park and associated infrastructure have been delivered.

The Applicant and Council have entered into a new VPA for the delivery of the outstanding playing fields, recreation facilities, associated infrastructure and the Marang Parklands. The new VPA would only come into effect upon approval of this SSD application.

2 Development

2.1 Description of the Development

The development (as amended) is summarised in **Table 1** and shown in **Figure 5 to Figure 7** and described in full in the Environmental Impact Statement (EIS) and Submissions Report included in **Appendix A**.

Table 1 | Main Aspects of the Development

Aspect	Description
Summary	Construction and operation of an RRF and WDF, and construction of the Marang Parklands public open space for dedication to Council
RRF	<p>The RRF would occupy 10 ha of Lot 5 and process up to 650,000 tpa of non-putrescible waste, including 300,000 tpa of construction and demolition waste (C&D), 300,000 tpa of soils, and 50,000 tpa of commercial and industrial (C&I) waste. Waste processing would be enclosed.</p> <p>RRF outputs would include 300,000 tpa of processed soils, 150,000 tpa of crushed concrete and bricks, 90,000 tpa of SRF and residuals, 50,000 tpa of recovered timber, 40,000 tpa of recovered fines, 10,000 tpa of recovered aggregate, 8,000 tpa of recovered metals and 2,000 tpa of recovered PVC.</p> <p>Proposed buildings include a main waste processing building, concrete processing building, soil processing building, office, amenities, and a workshop.</p> <p>Proposed infrastructure includes weighbridges, wheel washes, stormwater basins and internal roadways.</p>
WDF	<p>Increased capacity for the existing Lot 5 landfill to accept up to 90,000 tpa of waste, primarily comprising residual waste produced from the RRF, and construction of an additional landfill cell, Cell B11 Stage C is proposed to be constructed, which was not previously approved under DA269/90.</p> <p>Landfilling to a level of approximately RL 30 m is proposed.</p>

Aspect	Description
	<p>Up to 1,350,000 tonnes of waste could be accepted at the landfill. Total volume of landfilling is 2,349,041 m³, an increase of 386,167m³ above the capacity approved by Council under DA269/90.</p> <p>Proposed 15-30 year lifespan subject to 65,000 tpa of SRF being dispatched to energy recovery facilities or applied to the WDF.</p>
Marang Parklands	<p>Construction of the Marang Parklands to the west of the proposed RRF and the WDF within Lots 1122, 1123 and 6 covering an area of 29.79 ha.</p> <p>The Marang Parklands contains the following components:</p> <ul style="list-style-type: none"> • car parking for 200 cars and coaches • outdoor amphitheatre • picnic facilities, including picnic tables and shelters • playground and village green • slide at the key lookout point • accessible walking tracks and trails • extensive landscaping comprising Kurnell Dune Forest, Coastal Heath and grasses. <p>The parklands will be dedicated to Council in accordance with the VPA executed on 17 February 2023</p>
Road works	<p>A roundabout at the intersection of Lindum Road is proposed including an extension of Lindum Road to the south to provide access to the site</p> <p>A new access driveway would be constructed from the Lindum Road extension to cater for light and heavy vehicles. The driveway would be separated by a median to avoid conflict between entering and exiting vehicles at Lindum Road. A footpath would be constructed alongside the extension of Lindum Road to provide ongoing access to the walking trail adjacent to the site.</p>
Traffic	<p>Weekdays – 1070 two-way movements per day (light and heavy vehicles)</p> <p>Weekends – 422 two-way movements per day (light and</p>

Aspect	Description
	heavy vehicles)
Vehicle Parking	88 parking spaces for the RRF and WDF. 200 parking spaces for the Marang Parklands.
Capital Investment Value (CIV)	\$48,874,023
Hours of operation	24 hours a day, seven days a week
Employment	80 full time equivalent (FTE) employees during construction of the RRF, WDF and Marang Parklands 90 FTE employees during operation of the RRF and WDF

2.2 Physical Layout, Design and Process Description

2.2.1 Waste Acceptance and Processing

All waste loads entering the facility would be managed in accordance with the Environment Protection Authority's (EPA's) Standards for Managing Construction Waste in NSW, and would include three inspection points, including tip and spread areas, and all nonconforming waste would be rejected.

The RRF would have four separate waste processing regimes, including mixed C&D and C&I, SRF processing, soil processing, and concrete processing. All waste processing would occur in enclosed buildings except soil drying which would occur in an external dedicated soil drying area.

The soils, recovered fines, and recovered aggregate outputs are proposed to be used to construct the Marang Parklands once validated for reuse in accordance with the environment protection licence (EPL). Following the completion of the Marang Parklands, these materials would be sold to customers, or used to rehabilitate or profile the waste disposal area on Lot 5 at the completion of landfilling.

Other recovered materials including plastics and metals would be sold on the market for reuse or further recycling/recovery. Recovered timber would be processed into a range of products including mulch which would be used in the construction of the Embellished Marang Parklands or sold to customers once validated for reuse in accordance with the EPL.

2.2.2 Waste Disposal Facility

The proposal includes the continued landfilling of Lot 5 to achieve an alternative landform to that approved under DA269/1990 with an increased total volume of 2,349,041m³ (an increase of 386,167 m³). The proposal also includes the construction and landfilling of an additional landfill cell (proposed Cell C east of existing Lot 5 landfill) which was not previously approved by Council or the EPA in issuing the EPL for the site.

A typical north-south cross-section of the approved versus the proposed final landform is provided in **Figure 6**. The proposed landform would increase the RL in some areas by up to 20 m in height to an RL of 30 m compared to the surrounding elevation of RL 5 m (including the Cronulla State Park to the south and the proposed RRF).

At the end of the lifespan of the landfill, Lot 5 would be capped in accordance with a Landfill Closure Plan required by the EPL 4608 (which would be amended to reflect the proposed final landform). Material derived from the RRF would be used in the capping of the landfill.

The Applicant has proposed to utilise the Lot 5 landfill area following capping as a 'landscape buffer' including installing turf and landscaping with similar treatments as proposed for the Marang Parklands. The Remedial Action Plan (RAP) and Site Audit Report (SAR) note that the Lot 5 landfill area could be utilised for private open space (green buffer) once landfilling is completed. However,

for the purposes of the SAR, the future immediate land use under consideration for Lot 5 is ‘commercial / industrial’.

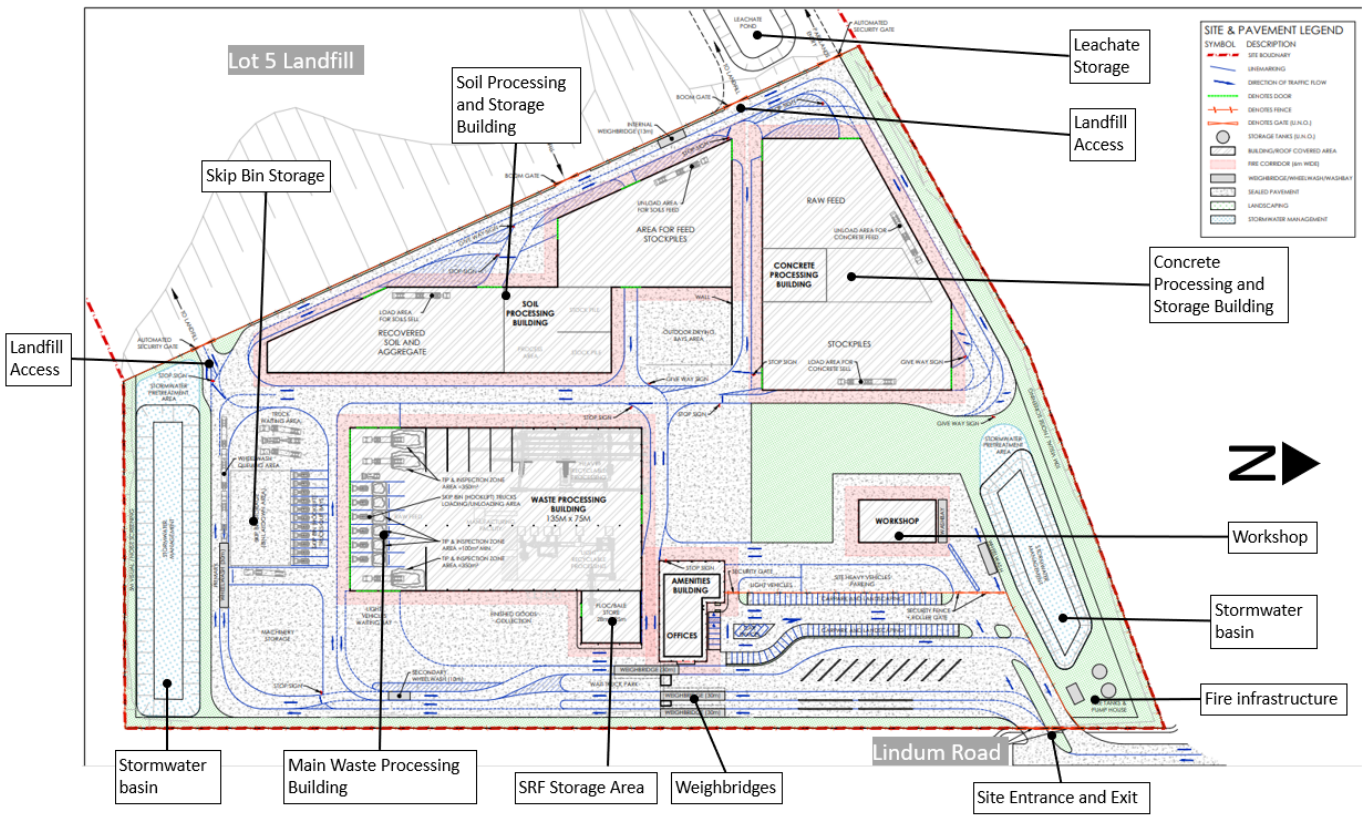
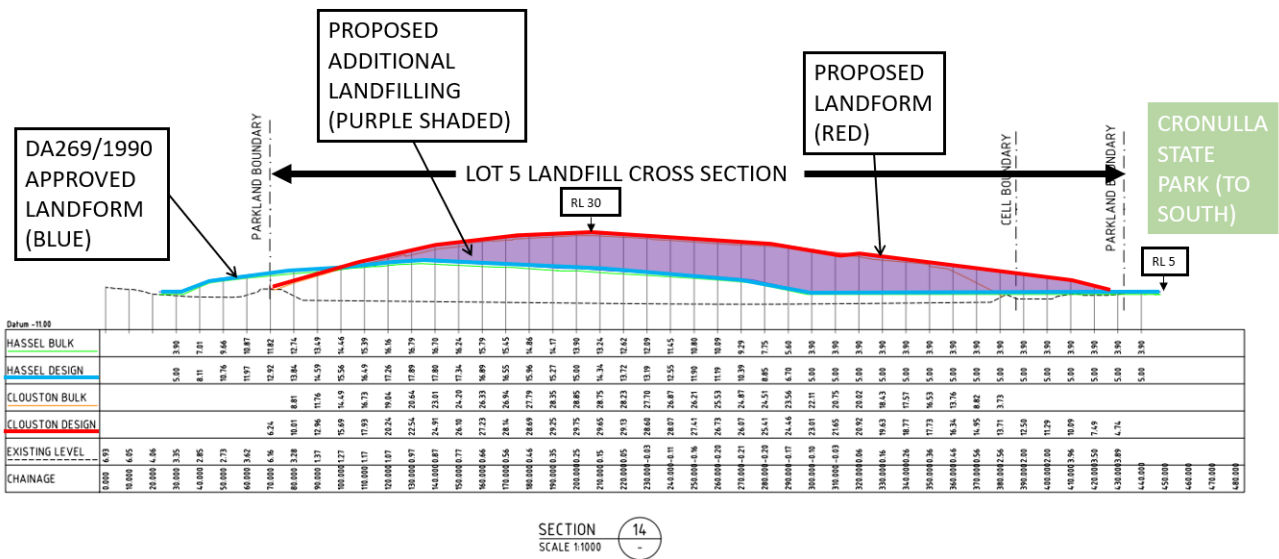


Figure 5 | Proposed RRF



2.2.3 Physical Layout and Design of the Marang Parklands

The proposal includes the construction of the Marang Parklands to the west of the proposed RRF and the WDF within Lots 1122, 1123 and 6 which covers an area of 29.79 ha. The Landscape Masterplan for the Marang Parklands is shown in **Figure 7**.

The Applicant has proposed an alternative final landform to that approved under DA269/1990 for the Marang Parklands area. No new waste would be landfilled to produce the final landform, however approximately 1,500,000 m³ of material would be required to carry out the necessary re-profiling of the site. These materials would come from existing stockpiles on the site (500,000 m³) and from materials processed through the new RRF at a rate of 200,000 m³ per year. Material sourced from the new RRF would include soils, aggregates and mulch. An additional 500,000 m³ would be required to be imported to the Marang Parklands for capping and profiling including engineered clay and virgin excavated natural material (VENM). The new VPA requires the Marang Parklands to achieve practical completion by May 2026, subject to construction related delays.

The new VPA includes a requirement for the Applicant to pay a 'local roads and parklands maintenance levy' in the amount of \$1 per tonne of material processed at the RRF. The funds would be used by Council to maintain the Marang Parklands and roads and infrastructure in the locality.

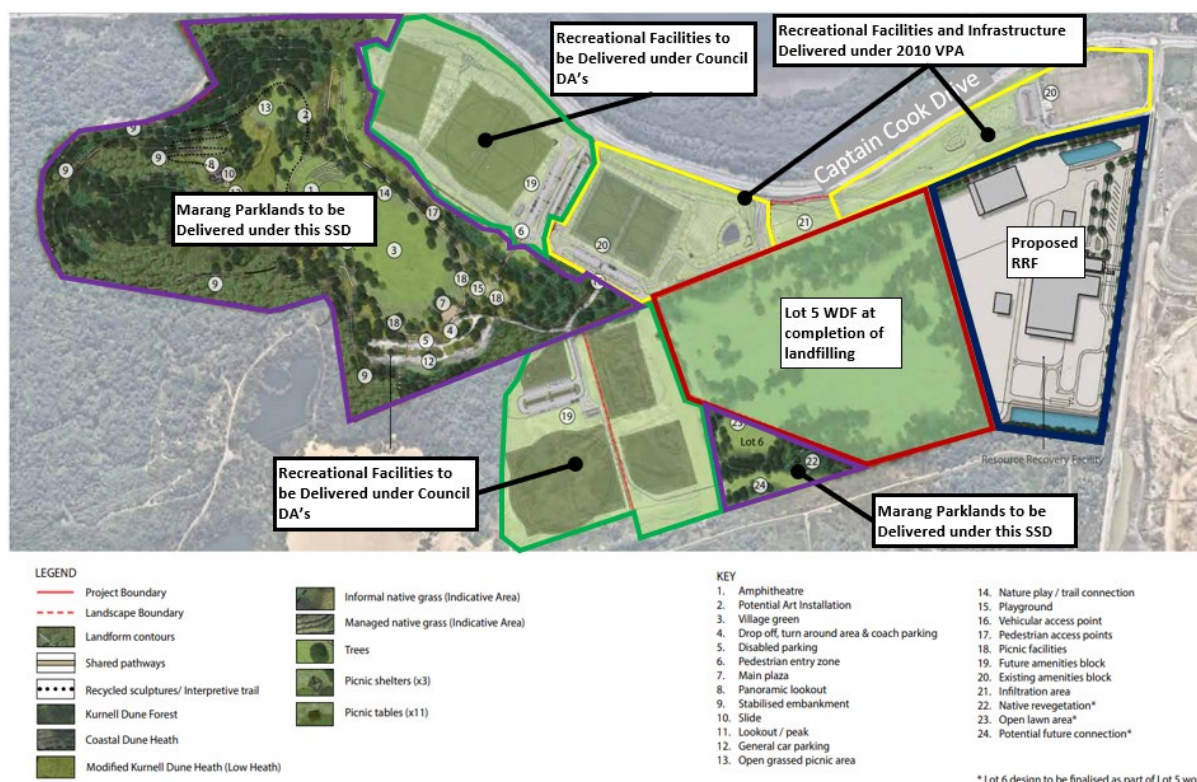


Figure 7 | Landscape Master Plan of the Marang Parklands

2.3 Applicant's Justification for the Development

The Applicant justified the development on the basis that it would modernise their operations, provide a vertically integrated RRF enabling significant diversion of waste from landfill, contribute to NSW Government's resource recovery targets, and promote the orderly and economic use of the site through delivery of a modern, purpose-built RRF and ongoing delivery of the Marang Parklands, without causing any unacceptable biophysical or amenity impacts.

3 Strategic Context

3.1 Key Strategic Issues

The consistency of the development with key relevant strategies, plans and policies relevant to the assessment of the development is outlined in **Table 2** below.

Table 2 | Summary of Key Government Strategies, Plans and Policies

Strategy, Plan or Policy	Consistency	Comments
The Greater Sydney Region Plan	Consistent	<p>The Greater Sydney Region Plan, A Metropolis of Three Cities (the Region Plan) is a vision of three cities in Sydney: Western Parkland City, Central River City and Eastern Harbour City which forms part of the integrated planning framework for Greater Sydney.</p> <p>The development is located within the Harbour CDB District and is consistent with the directions, principles and priorities outlined in the Greater Sydney Region Plan and the Sydney South District Plan, specifically managing waste efficiently, identifying new locations for waste recycling and management facilities and supporting innovation to reduce the volume of waste and waste transportation.</p>
NSW Waste and Sustainable Materials Strategy 2041 (WSM Strategy)	Consistent	<p>The WSM Strategy adopts targets from the National Waste Policy Action Plan, including:</p> <ul style="list-style-type: none">• have an 80% average recovery rate from all waste streams by 2030• significantly increase the use of recycled content by governments and industry <p>The proposal would contribute towards NSW meeting the 80% target for recycling of commercial and industrial waste, as well as the 80% target for recycling construction and demolition wastes. It would also assist NSW in increasing waste diverted from landfill towards the target of 80%.</p> <p>The proposal seeks to meet these targets through increased resource recovery by constructing a new RRF on the site and providing additional points during the handling of waste to recover recyclable components.</p>

Strategy, Plan or Policy	Consistency	Comments
NSW Plastics Action Plan 2021	Consistent	The NSW Plastics Action Plan outlines actions and outcomes that would help meet the targets in the WSM. The proposed development is consistent with the action plan, in particular making the most of plastic resources and reduced plastic leakage into the environment by segregating it from other wastes for reprocessing or use in SRF.
NSW Circular Economy Policy Statement	Consistent	The EPA's Circular Economy Policy Statement 2019 sets out principles for transitioning NSW towards a circular economy. The development is consistent with the principles of the policy including sustainable management of resources, maintaining the value of materials and creating new circular economy jobs.
Sutherland Council Local Strategic Planning Statement (LSPS)	Consistent	<p>The purpose of the LSPS is to develop a vision for land use in the Sutherland Shire for the next 20 years by recognising and understanding the current land use trends and anticipating those that may likely emerge. The proposal would assist in achieving the following LSPS priorities:</p> <ul style="list-style-type: none"> • explore new approaches to improve energy, water and waste efficiencies to improve the resilience of Sutherland Shire. <p>The site has been identified in the LSPS Structure Plan in proximity to a strategic site for high-intensity employment lands.</p>
Sutherland Shire Council Waste Management Strategy 2022-2042	Consistent	The Sutherland Shire Council Waste and Resource Recovery Strategy adopts the principles of a circular economy including reducing waste and encouraging resource recovery. The development is consistent with the key focus areas of increasing recycling, diverting more waste from landfill and reducing illegal dumping.

4 Statutory Context

4.1 Permissibility and Assessment Pathway

Details of the permissibility of the development and the assessment pathway under which consent is sought are provided in **Table 3** below.

Table 3 | Permissibility and Assessment pathway

Consideration	Description
Permissibility	<p>The State Environmental Planning Policy (Precincts - Central River City) 2021 (CRC SEPP) is the principal environmental planning instrument that currently applies to the land the subject of this proposal. The site is zoned 7(b) Special Development Zone under the CRC SEPP. Land uses of an industrial and commercial nature, as well as tourism uses are permissible in this zone. The majority of the development is permissible with consent within this zone. Specifically, clause 9 of the CRC SEPP sets out that any development is permissible with consent within the 7(b) zone, except for a range of prohibited uses that include waste disposal.</p> <p>Waste disposal is defined as:</p> <p>the use of a building or place for the purpose of treating, storing or disposing of any waste, as defined by the <i>Waste Disposal Act 1970</i>, 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 EPA for the receipt of natural excavated material and demolition materials as approved by that Authority.</p> <p>The Applicant suggests the new RRF should be considered a ‘depot registered with the EPA for the receipt of natural excavated material and demolition materials as approved by that Authority’ and therefore waste disposal is also permissible.</p> <p>The recycling of construction and demolition waste at the RRF is considered permissible development under clause 2.153(3) of State Environmental Planning Policy (Transport and Infrastructure) (TI SEPP) as industries are considered permissible in the 7(b) zone:</p> <p><i>(3) 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.</i></p>

Consideration	Description
	<p>The proposed acceptance and processing of C&I waste at the RRF is not covered by clause 2.153(3) of the TI SEPP. As such, it is considered that this aspect of the RRF is not permissible within the 7(b) zone.</p>
Assessment pathway	<p>The development is SSD under section 4.36 of the EP&A Act as it satisfies the criteria under section 2.6(1) of the State Environmental Planning Policy (Planning Systems) 2021 (PS SEPP):</p> <ul style="list-style-type: none"> the development on the land concerned is not permissible without development consent, and the development is for the purpose of a resource recovery or recycling facility that will handle more than 100,000 tpa of waste, which meets the criteria in clause 23(3) of Schedule 1 of the PS SEPP. <p>The components of the proposal which are not considered SSD under the PS SEPP are the WDF and the construction and operation of the Marang Parklands. The Applicant has included these components of the development in the SSD application under clause 2.6(2)(b) of the PS SEPP.</p> <p>The Department is satisfied there is an interrelationship between the Marang Parklands, RRF and WDF and as such, the components of the proposal can be considered under one SSD application. The RRF will produce materials for construction and ongoing maintenance of the Marang Parklands, the landfill accepts residual waste from the RRF, the proximity and connectivity between the components delivers operational efficiencies regarding access to plant equipment and personnel, the management of groundwater is linked across the site, and the components can share a common construction vehicle access.</p> <p>Under section 4.38(3) of the EP&A Act, development consent may be granted despite the development being partly prohibited by an environmental planning instrument. With the inclusion of the processing of C&I waste (which equates to 8% of the waste streams to be processed at the RRF), the Department notes the proposed development is partly prohibited, however, it is open to the consent authority to still grant development consent.</p>
Consent authority	<p>Independent Planning Commission</p> <ul style="list-style-type: none"> The Independent Planning Commission (the Commission) is the declared consent authority under section 4.5(a) of the EP&A Act and section 2.7(1) of the Planning Systems SEPP because Council had duly made an objection in accordance with the EP&A Act.
Decision-maker	Executive Director

Consideration	Description
	<p>On 14 June 2022, the Chair of the Commission delegated the functions to determine SSD applications to the Executive Director, Energy, Resources and Industry Assessments where:</p> <ul style="list-style-type: none"> the application has not already been referred by the Planning Secretary to the Commission for the determination as at the date of the delegation; the application is for SSD for which the Commission is declared to be the consent authority only by operation of Section 2.7(1)(a) of the Planning Systems SEPP; and Council has advised in writing to the Department that its objection has been resolved. <p>The Commission is declared to be the consent authority only by operation of Section 2.7(1)(a) of the Planning Systems SEPP as the Department received less than 50 unique public submissions on the development and no reportable political donations were made by the Applicant in the last two years.</p> <p>Council made a submission within the exhibition period objecting to the SSD application but advised the Department in writing on 9 March 2023 that it has withdrawn its objection.</p> <p>Accordingly, the application can be determined by the A/Executive Director, Energy, Resources and Industry Assessments under delegation.</p>

4.2 Other Approvals and Authorisations

Should development consent be granted, other approvals may be required in order to carry out the development. Section 4.42 of the EP&A Act lists a number of approvals that cannot be refused if required to carry out the development and must be approved in a manner that is consistent with any SSD consent granted under the EP&A Act.

The development will require an environment protection licence (EPL) issued by the EPA under section 42 of the *Protection of the Environment Operations Act 1997*.

The Department has consulted with and considered the advice of the EPA in its assessment of the development (see **Section 5** and **Section 6**) and has included the EPA's recommended conditions in the conditions of consent (see **Appendix E**) which include waste management, landfill design, air quality, contamination and water management.

4.3 Mandatory Matters for Consideration

Section 4.15 of the EP&A Act sets out matters to be considered by a consent authority when determining a development application (DA). The Department's consideration of these matters is shown in Section 6 and **Appendix D**.

4.4 Public Exhibition and Notification

In accordance with section 2.22 and Schedule 1 to the EP&A Act, the DA and any accompanying information of an SSD application are required to be made publicly exhibited for at least 28 days. The application was on public exhibition from 6 August 2021 until 2 September 2021. Details of the exhibition process and notifications are provided in **Section 5**.

4.5 Objects of the EP&A Act

In determining the application, the consent authority should consider whether the development is consistent with the relevant objects of the EP&A Act (section 1.3), including the principles of ecologically sustainable development (ESD). The Department has fully considered these matters in **Appendix A**.

The Department is satisfied that the development is consistent with the objects of the EP&A Act and the principles of ESD.

4.6 Biodiversity Development Assessment Report

Section 7.9(2) of the *Biodiversity Conservation Act 2016* (BC Act) requires all SSD applications to be accompanied by a Biodiversity Development Assessment Report (BDAR) unless the Planning Agency Head and the Environment Agency Head determine that the development is not likely to have any significant impact on biodiversity values (as identified in the BC Act and in the *Biodiversity Conservation Regulation 2017*).

A BDAR was submitted as part of the EIS (see **Appendix A**) and was referred to the Biodiversity, Conservation and Science Group (BCS) (previously known as Environment and Heritage Group) of the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) for comment.

The development includes the clearing of some native vegetation and therefore the EIS included a BDAR. The Applicant submitted a revised BDAR with the RtS in response to issues raised by Council and EHG including additional surveys for Green and Golden Bell Frogs. The BDAR concluded the site may provide dispersal habitat for the Green and Golden Bell Frogs and would be an unsuitable breeding habitat. No offsets were identified as being required for the Green and Golden Bell Frogs. The revised BDAR concluded that the proposal would require offsets for two species being the White-fronted Chat and Coast groundsel. Council reviewed the revised BDAR and did not raise any additional issues. The BDAR was further revised at the request of BCS and the Department to consider impacts and offsets for the Coast groundsel plant species.

The Applicant has proposed to secure and retire the required 11 credits per the 'like-for-like' offset rules in Clause 6.2 of the Biodiversity Conservation Regulation 2017 for the White-fronted Chat and the Coast groundsel.

The Department's consideration of the BDAR and BCS's advice, including the potential impact of the development upon biodiversity values at the site, is provided in **Section 6** of this report.

4.7 Matters of National Environmental Significance

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), assessment and approval are required from the Australian Government if a development is likely to impact on a Matter of National Environmental Significance (MNES), as it is considered to be a 'controlled action'.

The EIS for the development included a preliminary assessment of the MNES in relation to the development and concluded the development would not impact on any of these matters and is therefore not a 'controlled action'. As such, the Applicant determined a referral to the Australian Government Department of Climate Change, Energy, the Environment and Water was not required.

5 Engagement

As required by the Planning Secretary's Environmental Assessment Requirements (SEARs), the Applicant undertook consultation with relevant local and State authorities as well as the community and affected landowners prior to lodgement of the EIS. The Department undertook further consultation with these stakeholders during the exhibition of the EIS and throughout the assessment of the application. These consultation activities are described in detail in the following sections.

5.1 Consultation by the Applicant

The Applicant undertook a range of consultation activities throughout preparation of the EIS including emails, phone conversations and face-to-face (virtual) meetings with government agencies and a fact sheet on the proposal was distributed to surrounding landowners.

5.2 Consultation by the Department

After accepting the DA and EIS, the Department:

- publicly exhibited the DA and EIS from 6 August 2021 until 2 September 2021 on the NSW planning portal
- notified occupiers and landowners in the vicinity of the site about the public exhibition
- notified and invited comment from relevant government agencies and Council.

5.3 Submissions and Advice

During the exhibition period, the Department received advice from five government agencies and Council who initially objected to the development but later withdrew the objection. A total of 50 submissions were received from the public including 38 by way of objection, including two from Besmaw.

A summary of the submissions and government advice is provided below. A link to the full copy of the submissions and advice is provided in **Appendix B**.

5.3.1 Government Authority Advice

A summary of the government authority advice is provided in **Table 4**.

Table 4 | Summary of Government Authority Advice

Agency	Advice summary
EPA	Raised a number of issues with the proposal, including requesting enclosure of all waste processing, further information on waste processing, further information on landfill design and capping, requesting pollution controls for stormwater interacting with waste stockpiles.

Agency	Advice summary
DCCEEW - Water Group	Recommended conditions of consent requiring Water Access Licenses (WALs) for the development and preparation of an Acid Sulfate Soils Management Plan.
Fire and Rescue NSW (FRNSW)	Did not raise any objections and recommended conditions of consent requiring adherence to their 'Fire safety guideline for fire safety in waste facilities', Clause E1.10 and E2.3 of the NCC and the preparation of a Fire Safety Study (FSS) and an Emergency Response Plan (ERP).
DCCEEW - BCS	Raised a number of issues and requested additional information including requiring updated BDAR certification, an ecosystems credit summary report for all PCTs, consideration of the White-fronted Chat as a candidate species credit species, further assessment of the Green and Golden Bell Frog and coast groundsel plant species, and assessment of potential impacts on the Towra Point Nature Reserve (a RAMSAR Site).
Heritage NSW	Did not raise any objections to the proposal or provide any comments.

5.3.2 Key Issues – Council

Sutherland Shire Council (Council) originally objected to the development on the following grounds:

- the terms of a new VPA regarding the delivery of the Marang Parklands had not been agreed
- under the 2010 VPA, the landfilling and resource recovery operations on the site were required to cease by December 2020
- the ongoing management and maintenance requirements of the former landfills under the proposed parklands are unknown and a landfill closure plan has not been provided
- site and groundwater contamination including ammonia and heavy metals that are known to exist above human and aquatic exposure limits are not adequately addressed in the proposal
- the new Lot 5 landform will dominate over the dunal and beach landscape
- there is concern associated with ingress and egress to the site including:
 - safe entry and exit to and from Captain Cook Drive for the Marang Parklands
 - conflicts between additional truck movements in Lindum Road with existing vehicle and pedestrian/cycle movements.

Council subsequently withdrew its objection following review of the RTS.

5.3.3 Key Issues – Private Businesses

Besmaw Pty Ltd (Besmaw) – Besmaw is the owner of the adjacent property to the east legally described as Lot 2 DP 1030269 and Lot 2 DP 559922. Besmaw submitted two separate submissions (one prepared by Urbis and another by Minter Ellison). Both submissions objected to the proposal on similar grounds, including:

- the proposal is inconsistent with the objective of the 7(b) Special Development zone
- there is an inadequate relationship between the prohibited uses and the permissible uses
- the proposed WDF and the construction of the Marang Parklands are not considered to be sufficiently related to the SSD component of the development under clause 8(2) of the PS SEPP.

5.3.4 Key Issues - Public Submissions

A total of 48 submissions were received from the public including:

- a submission from the Kurnell Progress and Precinct Residents Action Group (Kurnell PPRAG) providing comments
- five submissions in support of the development
- six submissions providing comments
- 36 unique submissions objecting to the proposal.

The key issues raised by the public include the following concerns and issues:

- potential traffic impact of the development on the capacity and efficiency of the local road network
- air quality impacts affecting the amenity of the Greenhills Beach residential area
- potential noise impacts including road noise
- the delayed delivery of the Marang Parklands
- visual and built form impacts of the development
- potential impacts of the development on the biodiversity values of the locality.

The percentage of submissions received for each issue is provided within **Figure 8**.

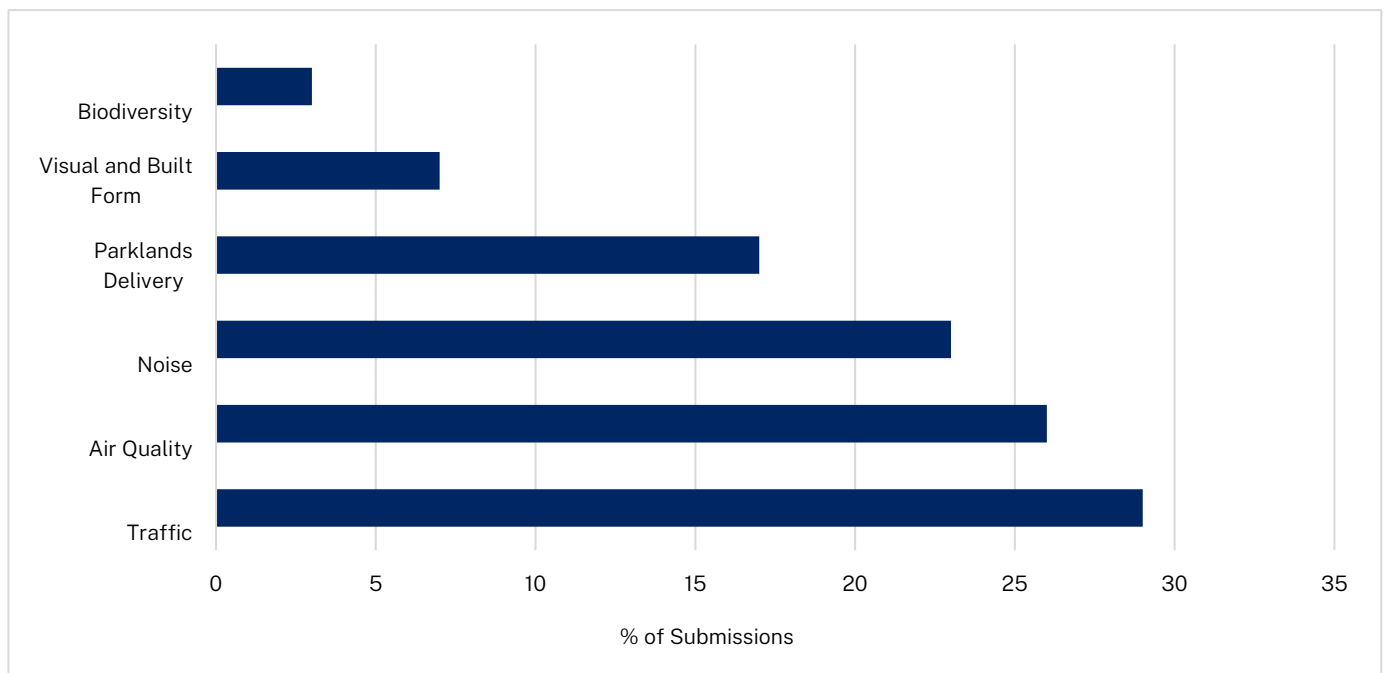


Figure 8 | Key Issues Raised in Public Submissions

5.4 Submissions Report and Additional Information

Following the public exhibition period, the Department requested the Applicant to respond to the issues raised in submissions and the advice received from government agencies. The Applicant provided a Submissions Report to the Department on 16 December 2022 (see **Appendix A**).

The Department published the Submissions Report on the NSW planning portal and forwarded the Submissions Report to relevant government authorities and Council for comment on 8 February 2023.

In response to the concerns raised by the EPA, the RtS proposed additional buildings to ensure all waste processing and stockpiling would be carried out in fully enclosed buildings. The RtS included the new draft VPA, the terms of which were agreed to by Council. The RtS also included additional information, justification and clarification to address the submissions received.

Council withdrew its objection to the development and confirmed that the new VPA had been executed on 17 February 2023. Council raised the following residual issues which had not been addressed in the RtS:

- Council remained concerned with existing groundwater contamination in the area and the potential additional impacts posed by the development
- Council recommended a condition of consent requiring the extension of Lindum Road to the south and the provision of 20 (ninety-degree) on-street parking spaces and a turning area to allow continued access to the State park to the south of the site.

EPA provided support for the amended design of the proposal in the RtS however identified the following residual issues and concerns which were not adequately addressed in the RtS:

- additional information was required on the proposed weighbridge system
- exclusion of certain waste types to be accepted at the RRF and WDF
- additional clarification on waste management processes
- further practical and reasonable measures are needed to avoid the discharge of polluted water off site
- a Leachate Management Plan should be prepared
- the issue of a Section A Site Audit Statement (SAS) and Site Audit Report (SAR) to certify the suitability of the land for the future land uses including the Marang Parklands.

Water Group reiterated the recommended conditions of consent provided in its first submission.

BCS reiterated its concerns regarding the potential for Green and Golden Bell Frog habitat in the area and raised concerns with the revised BDAR provided in the RtS. BCS requested the Applicant address these concerns in a further revision of the BDAR.

The Department has considered the issues raised in submissions, the Submissions Report and the supplementary concerns raised, in its assessment of the development. A summary of the Department's consideration of community views is provided in **Appendix D**.

5.4.1 Additional Information and Residual Issues

The Applicant worked closely with the EPA to understand and address their concerns. The EPA provided an additional letter which suggested its residual issues had been addressed, with the exception of the provision of an SAS and SAR prior to the determination of the development.

The Applicant submitted an RAP dated 22 December 2023 and an SAS and SAR prepared by a Site Auditor and dated 12 April 2024. Following a review of the RAP and various contamination and groundwater assessments carried out for the site, the Site Auditor found the site can be made suitable for open space and commercial / industrial uses subject to the successful remediation of the site as proposed in the RAP.

The Applicant provided a revised BDAR to address issues raised by BCS. Following review of the revised BDAR, BCS identified residual issues relating to survey methodologies used for Green and Golden Bell Frog, impacts on groundwater dependent ecosystems and coast groundsel plant species. The Applicant provided additional information in response to these residual issues. Following a review of the additional information, BCS recommended that coast groundsel should be assumed to be present at the site. The Applicant updated the BDAR accordingly and included a biodiversity credit report identifying that 11 species credits would need to be secured and retired for each of the coast

groundsel and the white fronted Chat. BCS had no further comments and recommended conditions to be included in any consent.

6 Assessment

The Department has considered the EIS, the issues raised in the submissions and the RtS in its assessment of the development. The Department considers the key assessment issues are visual impact, leachate, groundwater and surface water management, air quality and contamination.

Other issues considered by the Department are addressed in **Table 6** in **Section 6.5**.

6.1 Visual Impact and Final Landform

The development includes an alternative height and landform for the Lot 5 landfill (compared to that previously approved under the Hassell Plan) and the construction of the new RRF, which has the potential to cause visual impacts from surrounding public vantage points.

The EIS included a Visual Impact Assessment (VIA) which assessed the potential effects of the proposed change of landscape and built form. In response to issues raised by Council, the Department and in the public submissions, a revised VIA was submitted in the RtS.

The VIA selected viewpoints from surrounding lands with a focus on locations where the proposal would be potentially visible to the general public. The VIA identified the potential for only minor visual impacts caused by the new built form of the RRF from surrounding viewpoints. Due to the increased height and alternative landform proposed for the Lot 5 landfill, the VIA concluded that some existing public viewpoints would be affected by moderate to high visual impacts. The VIA identified that the most impacted public viewpoint would be from the walking trail and lookout platform located to the south of the proposed WDF in the Cronulla State Park (refer to **Figure 9** and **Figure 10**) (referred to as Viewpoint 7 in the VIA). Sweeping views of the Sydney skyline are presently available from the lookout platform over the existing Lot 5 landfill operations which would be obscured with the proposed filling operations.

The VIA noted the following visual impact would be expected from the lookout platform:

The proposed landform and constructed mounds will dominate this view, and gradually remove the view of Botany Bay to the northeast as the landform rises over time. This will eventually result in the loss of the city skyline, and specifically the water views, which together with the landform material, machinery and ongoing nature of the operations will result in a 'High' visual impact.

The VIA also suggests that “whilst the current approved landform [Hassell Plan] would not impede the view of the Sydney CBD from Viewpoint 7, is reasonable to assume that the denser vegetation proposed in the Hassell scheme would close off views to the north (including the CBD) from this location”. The VIA notes that the landform of the Lot 5 landfill will take several years to reach final levels and during this time more expansive views of the Sydney city skyline would be available from the Marang Parklands at the lookout points.

The VIA concluded the high visual impacts expected at the lookout platform would be mitigated through the provision of more elevated or similar views from the Marang Parklands.



Figure 9 | View of the existing Lot 5 Landfill site from the Lookout Platform on the walking trail in the Cronulla State Park (photo taken in December 2022)

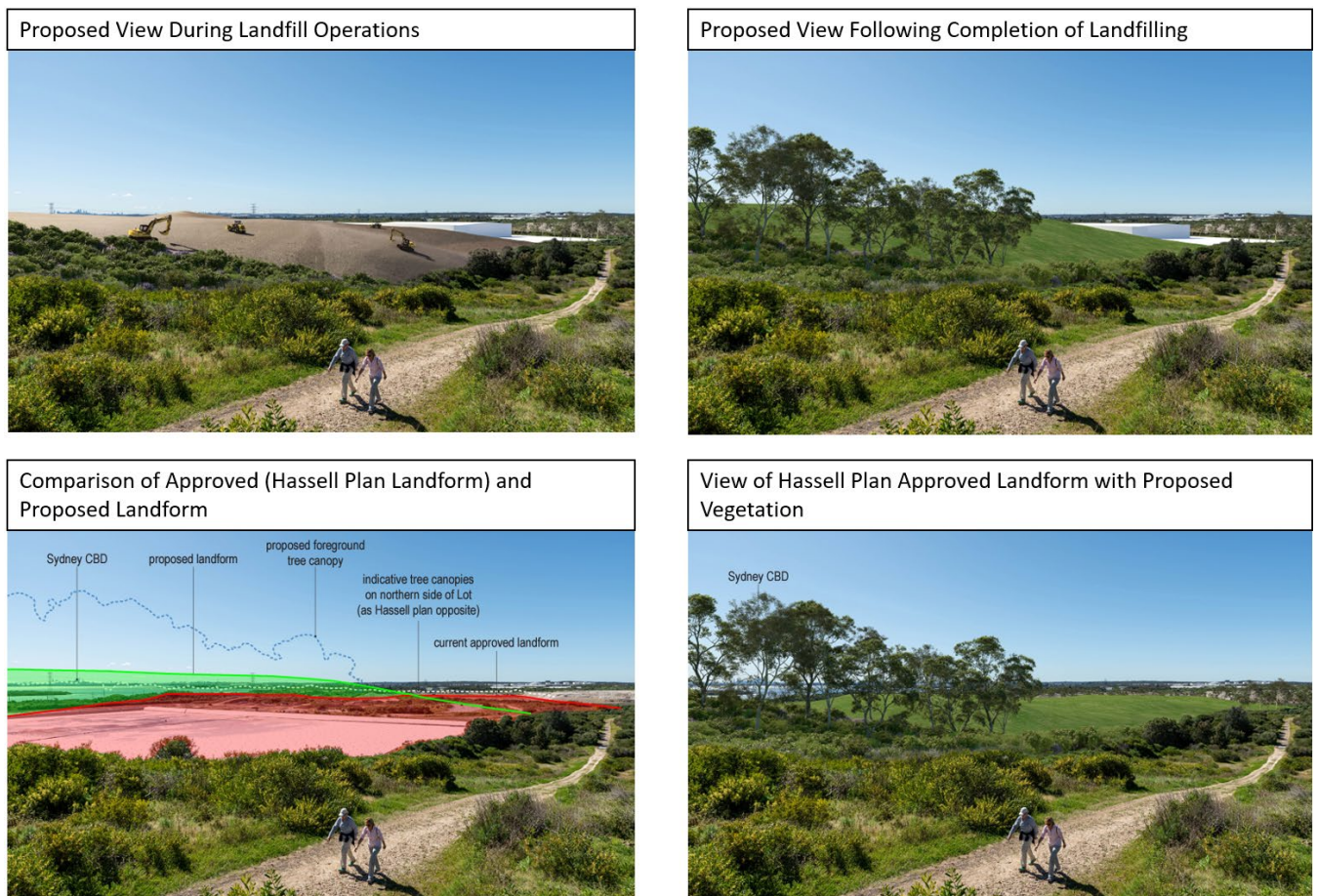


Figure 10 | Viewpoint 7 Analysis Provided in the VIA

Following a review of the revised VIA and the RtS, Council did not raise any additional concerns regarding the potential visual impacts of the proposal including the interruption of views from the walking trail in the Cronulla State Park. The Department reiterated its concerns with the visual impacts of the development and the elimination of Sydney city skyline views from the walking trails and lookout platform.

The Applicant provided a response to the residual issues raised by the Department in a letter dated 22 December 2023 which contended that the finished landform of the WDF would act as an amenity buffer between the RRF and the Marang Parklands and the existing views of the Sydney city skyline would be replicated in the construction of the Parklands including through the provision of new viewing platforms (see **Figure 11** and **Figure 12**). The Applicant suggested that the increase in the height of the Lot 5 landfill was justified as it would provide for increased landfilling capacity on the Kurnell Peninsula and would be used as a landscape buffer between the new RRF and the Marang Parklands.



Figure 5: Proposed Embellished Marang Parklands Landscape Masterplan

Source: Extract from Landscape Masterplan (Clouston Associates)

Figure 11 | Viewpoint 8 lookout from Embellished Marang Parklands



Figure 12 | North view from the proposed lookout point (viewpoint 8) within the Marang Parklands

Following further discussions with the Department, in a letter dated 20 August 2024 the Applicant suggested that in addition to the replacement views in the embellished Marang Parklands, views of the city would be available from the Lot 6 playing fields (see **Figure 13** and **Figure 14**). The Applicant identified an indicative trail shown in yellow in **Figure 13**, connecting Cronulla State Park walking trail to the Lot 6 parklands and playing fields to provide direct access from the impacted public viewpoint to alternative views towards the city.



Figure 13 | Additional view opportunities from Marang Parklands



Figure 14 | View from Lot 6 Playing Fields

6.1.1 Department's Assessment

The Department has carefully considered the revised VIA and the additional information and responses provided by the Applicant. The Department also visited the viewpoints assessed in the VIA to better understand the potential visual impacts of the development.

The Department concurs with the conclusions of the VIA that the proposed built form of the RRF would not have an adverse visual impact on visual receivers in the locality including the sporting field and skate park to the north. The Department considers the proposed increased height of the Lot 5 landfill and other elevated areas of the proposed Marang Parklands would impact Viewpoint 7, removing the sweeping views of the Sydney skyline from the established viewing platform in the State Park. It is noted that the Applicant has proposed to provide additional viewing platforms in the Marang Parklands to substantially replicate this view. The Department notes that the VPA for the Embellished Marang Parklands includes walking trails to access the proposed viewpoints.

The Applicant has proposed a landform which is higher than that approved in the Hassall Plan. The Department notes the Applicant's rationale of providing a landscaped buffer and increased landfilling capacity in Kurnell. The Department also notes that the final landform of the Lot 5 Landfill would have an impact on the topography of the area potentially stagnating strategically identified (in Council's LSPS) high-density employment lands. The Department notes Lot 5 would be used as a landscaped buffer following the closure of this parcel of land.

Overall, the Department considers the potential visual impacts can be appropriately managed through the replacement view points and improved connectivity to the Marang Parklands. To mitigate this visual impact and provide connectivity between the State Park and the Marang Parklands, the Department has recommended a condition of consent requiring a new pathway between the State Park walking trails and the Marang Parklands through Lot 6 DP1158627. This would allow the users of the State Park walking trails to access proposed viewing platforms within the Marang Parklands which would achieve one of the tenets of the original Hassell Plan approved by Council under DA 269/1990 and as depicted in **Figure 4**. To ensure the proposed viewing platform within the Marang Parklands is available to replace views lost from the Lot 6 platform, the Department recommended a condition requiring the Marang Parklands including the panoramic lookout be completed and dedicated to Council no later than 31 May 2026.

Subject to the proposed replacement views, and improved connectivity, the Department's assessment concludes that the potential visual and landform impacts of the development can be mitigated or managed.

6.2 Leachate, Groundwater and Surface Water Management

The proposed RRF and the construction and operation of the WDF have the potential to produce leachate that if not properly managed, could pollute groundwater or surface water. A key aspect of the successful operation of RRFs and management of landfills is the minimisation and management of leachate.

6.2.1 Leachate Management

Leachate is a liquid waste generated by waste decomposition and from water passing through waste and extracting contaminants from it. The volume of leachate is influenced by the amount of rainfall that infiltrates the landfill cell or comes into contact with waste within the RRF. The Applicant proposed to treat leachate and non-contaminated stormwater separately.

The EIS included a Leachate Management Strategy prepared by Consulting Earth Sciences which provided an overview of the leachate system, including:

- the continued use of the leachate storage dam and the landfill leachate barrier, collection and conveyance system constructed in 2019 as part of the first stages of the existing Lot 5 landfill in accordance with a Council development consent (DA 269/1990); and the current EPL including a Leachate Management Plan (LMP). Disposal of leachate from the existing dam is via evaporation
- the use of the leachate storage dam for the disposal of leachate from other landfill cells within the Breen holdings to be capped and closed as part of a Landfill Closure Plan in accordance with the sites current EPL
- ongoing monitoring of the leachate dam and conveyancing system
- progressively cap and close the Lot 5 landfill to reduce leachate flows into conveyancing system
- the storage and processing of all waste received at the RRF in enclosed buildings. A leachate collection and conveyance system would be provided in each building to discharge leachate to the existing leachate storage dam.

The EIS also included a Leachate Generation Assessment prepared by Consulting Earth Sciences which assessed the adequacy of the existing leachate storage dam and leachate management system to cater for the increased waste acceptance at the WDF and the acceptance of leachate from the RRF. The assessment used the Hydrological Evaluation of Landfill Performance (HELP) model to predict the volume of leachate that would be generated by the proposal and the leachate required to be collected from other landfill cells within the Breen holdings. The assessment included a detailed water balance which concluded that the proposed Leachate Management Strategy would effectively cater for the expected leachate generation from the proposal. The EPA requested additional information on the proposed leachate management system which was provided in the RtS.

The EPA was satisfied the Applicant amended the proposal to ensure all waste storage and processing was carried out in enclosed buildings to limit leachate production and avoid surface water contamination. The EPA reviewed the proposed leachate management system and did not raise any concerns and recommended conditions of consent including requiring all landfill cells to be constructed in accordance with the Landfill Guidelines and that a Leachate Management Plan be provided.

6.2.2 Surface Water

The diversion of stormwater away from the landfill cells, waste stockpiles and processing areas is an important consideration to limit leachate generation. The EIS included a Stormwater Management Strategy (SMS) prepared by Cardno. The strategy included a stormwater system for the Parklands following the capping and closure of the landfill cells on the Breen Holdings and another system for the RRF.

Marang Parklands

Until the landfill cells are capped and closed in accordance with a Landfill Closure Plan overseen by the EPA, all stormwater and surface water which interacts with cells would be treated as leachate. Following the closure of the landfill cells and as part of the construction of the Parklands, the following stormwater management measures are proposed:

- drainage of paved areas via a pit and pipe network to bioretention basins for treatment and then to infiltration basins to discharge to groundwater
- drainage of landscaped areas overland to infiltration basins which discharge to groundwater including a series of grassed swales to prevent flow across boundaries and Captain Cook Drive.

RRF

The SMS for the RRF comprise infiltration basins and vegetated swales/buffer strips adjacent to the northern and southern boundaries of the RRF to collect and treat surface water runoff prior to discharge to groundwater. Stormwater treatment devices would also be used to remove oils and grease, suspended solids, gross pollutants and some nutrients prior to discharge to groundwater. The SMS used DRAINS modelling to design the infiltration basins and stormwater system to cater for all storm events up to and including the 100 year annual recurrence interval (ARI) event to avoid runoff exiting the RRF.

Water quality management measures proposed for both systems have been designed using MUSIC modelling to meet the treatment targets in the Botany Bay and Catchment Water Quality Improvement Plan. The results of the MUSIC model (provided in the EIS and based on the storage and processing of some waste externally) are provided in **Table 5** which indicate that the proposed SMS would achieve the relevant targets for all pollutants. The EPA and Council both raised concerns with the outdoor storage and processing of wastes which could lead to surface water impacts including from contaminants not assessed in the MUSIC model (such as heavy metals).

Table 5 | Water Quality Pollutant Reduction Results

Pollutant	Modelled Reduction	Target
Total Suspended Solids (TSP)	95%	85%
Total Phosphorus (TP)	73%	65%
Total Nitrogen (TN)	45%	45%
Gross Pollutants (GP)	100%	90%

In response to the RtS which proposed to enclose all waste stockpiling and processing and collect and dispose of leachate at the WDF, Council and the EPA did not raise any additional concerns with the proposed SMS.

6.2.3 Groundwater

Leachate from landfills has the potential to impact groundwater if not properly monitored and managed. Groundwater at the existing landfills including the existing Lot 5 landfill is monitored through a network of monitoring wells in accordance with the site's EPL. The EIS included a Groundwater Impact Assessment (GIA) which characterised the impacts to groundwater quality and quantity associated with the proposal in the context of the NSW groundwater impacts assessment requirements. The GIA included investigations of groundwater quality on the site and at down gradient receptors. The GIA had the following notable findings:

- concentrations of contaminants in groundwater were above adopted ecological, aquaculture and human health criteria at down gradient receptors. The GIA argued that it is not clear whether the leachate from the landfills and the existing site operations is the cause of the elevated concentration of contaminants given the existing and historical mining and industrial operations in locality and the broader Kurnell Peninsula
- water quality within on-site infiltration ponds is generally of better quality than groundwater
- the existing groundwater quality migrating off-site is within the current beneficial use potential of the nearest surrounding registered groundwater wells
- the existing groundwater quality has a high acid neutralising capacity which will reduce the potential for the generation of acid sulfate soils associated with the proposal.

The GIA proposed additional monitoring points which builds on the existing program required by the site's current EPL.

The GIA concluded that following the capping of the existing landfills and the use of the leachate collection and treatment system there would be a large overall reduction in the generation of leachate

associated with the proposal relative to existing conditions, which is expected to result in groundwater of improved quality and lower volumes migrating off-site.

Council raised concerns with the contamination of groundwater in the locality and requested additional assessment of ammonia concentrations. The Applicant provided a Groundwater Response Letter as part of the RtS which included an assessment of additional monitoring data which found that ammonia concentrations reaching the site boundary had stabilised and were no longer increasing. Council reviewed the RtS and withdrew its objection to the development, however, noted concern with the nature and sources of groundwater contamination in the area.

6.2.4 Department's Assessment

The Department carefully reviewed the proposed leachate and SMS and the advice from the EPA and Council. The Department notes the leachate collection system for the site has been constructed under former Council development consents and in accordance with an EPL. The EPA is the responsible authority for regulating and ensuring the leachate collection system has been designed in accordance with the NSW Landfill Guidelines and monitoring the performance of the system through the EPL. The EPA was satisfied with the Applicant's response in the RtS to its initial concerns with groundwater.

The Department considers the stormwater management system has been designed to intercept and direct stormwater away from the landfill and waste stockpile and processing areas to minimise the creation of leachate. The Department is satisfied the proposed leachate and water management systems would effectively dispose of the leachate created by the landfill through evaporation with limited potential to impact groundwater. The Department notes the Applicant proposed a larger network of groundwater monitoring wells to provide a more comprehensive program to monitor the effectiveness of the proposed leachate collection and treatment system, which is supported.

To address potential issues with leachate arising from the development, the Department has recommended a range of conditions, including requiring the Applicant to:

- prepare a landfill design report detailing the design, construction, operation and rehabilitation of the WDF
- prepare a leachate management plan prior to the construction of the RRF detailing the specific measures to prevent leachate from contaminating surrounding surface water, groundwater and soils
- install the proposed additional groundwater monitoring wells prior to the construction of the RRF and prepare a groundwater management and monitoring plan. Should a correlation between leachate from the landfill operations and groundwater pollution be verified through the monitoring regime, additional investigations and mitigation measures would be required.

The Department's assessment concludes that the potential leachate, groundwater and surface water impacts of the development would be adequately monitored and managed to minimise potential offsite impacts subject to the implementation of the Applicant's management and mitigation

measures, adherence to the requirements of the existing EPL and the recommended conditions of consent.

6.3 Air Quality

The development has the potential to generate air quality impacts during the construction and operational stages due to land clearing, excavation and construction of the Parklands and RRF, and the ongoing landfilling of residual wastes at the WDF.

The EIS included an AQIA prepared by Wilkinson Murray in accordance with the EPA's 'Approved Methods for the Modelling and Assessment of Air Pollutants in NSW' (Approved Methods). The AQIA modelled the potential air quality impacts of the development at the Greenhills Beach residential area, the Kurnell village, the nearby sports fields to the north and the commercial area to the north-east. The AQIA used a site-specific model referred to as The Air Pollution Model (TAPM) to predict the potential air quality impacts caused by odour emissions, total suspended particulates (TSP), dust deposition and particulate matter ($PM_{2.5}$ and PM_{10}). The main sources of particulate emissions would be landfill excavation, Marang Parklands construction, wheel generated dust from the movement of vehicles and unloading wastes at the landfill tip face. The main odour sources would be from the active landfill waste disposal areas.

6.3.1 TSP, PM and Dust

The AQIA assessed worst-case scenarios for both construction and operational activities including the RRF and WDF operating at full capacity while the Marang Parklands is under construction. The predicted annual average TSP and dust levels were found to be below the relevant criteria at all residential receivers. Predicted levels of $PM_{2.5}$ and PM_{10} were below the relevant 24-hour and annual criteria at all residential receptors. The results indicate the potential for exceedances of the 24-hour average impact assessment criteria for $PM_{2.5}$ and PM_{10} at the nearby sporting fields and commercial receptors and exceedance of the annual average impact assessment criteria for $PM_{2.5}$ at the sporting fields.

The AQIA included a contemporaneous assessment of the 24-hour average to better understand these exceedances and potential impact on the sporting fields. The assessment indicated the potential for the 24-hour criteria to be exceeded for $PM_{2.5}$ was one day and three days for PM_{10} .

The EPA and many of the public submissions raised concerns with the potential dust impacts of the development. In consideration of these submissions, the Applicant in consultation with the EPA amended the design of the development to include all:

- trafficable areas with the NRRF would be sealed
- material handling, stockpiling and processing would occur within fully enclosed buildings (with the exception of clay material and wet soils, which will be dried outside).

An addendum to the AQIA, with an additional operational dust assessment prepared by SoundIn, was provided in the RtS. The addendum AQIA concluded the proposed design changes would be expected to reduce dust emissions from the operation of the RRF by more than 50% compared to the predictions in the AQIA. The Applicant also committed to using real-time dust monitoring to inform on-site management measures to minimise dust emissions and ensure that operations of the RRF and WDF do not result in exceedances of dust criteria at sensitive receptors.

The addendum also provided further analysis of the background monitoring data which indicated that the PM exceedances identified in the contemporaneous assessment were largely due to elevated background levels from events which occurred in 2018 including large dust storms in March; a localised source in June; and hazard reduction burning in July. Based on these findings, the addendum concluded that the construction and operation of the development, as defined in the AQIA, would not lead to additional exceedances of criteria for particulate matter.

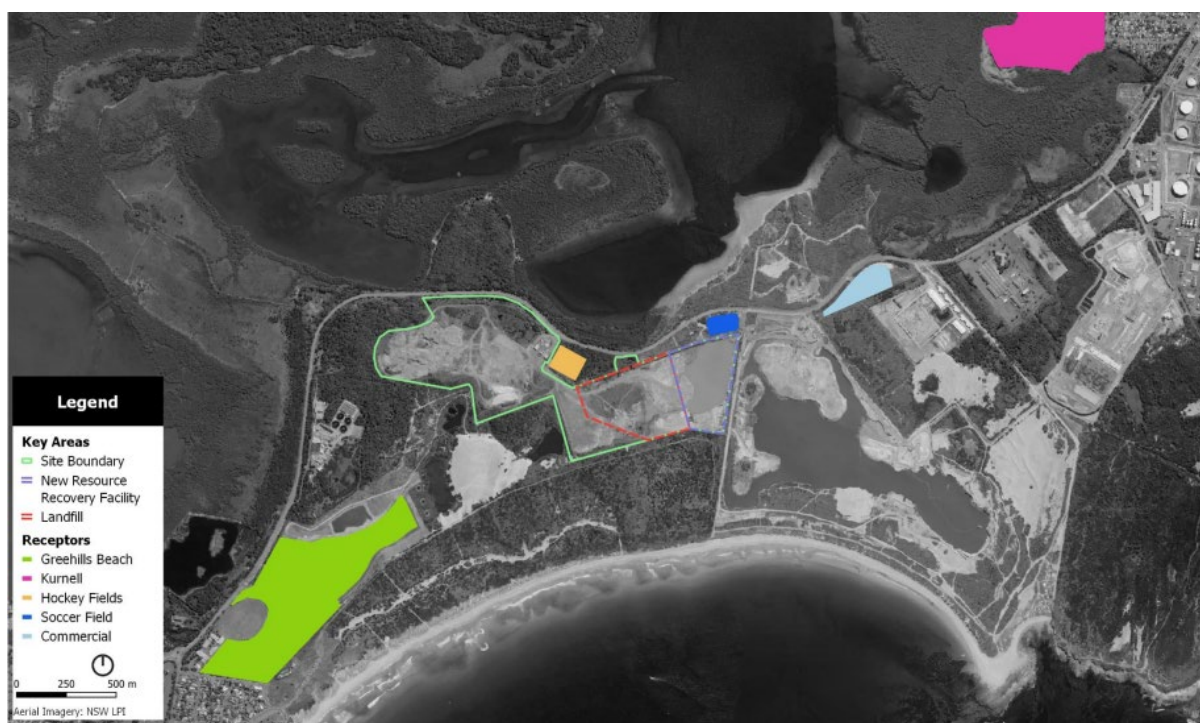


Figure 15 | Sensitive Receptor Locations

6.3.2 Odour

The storage, processing and landfilling of non-putrescible wastes including organic materials such as timber and green waste has the potential to cause odour impacts at receivers in the locality. The AQIA included dispersion modelling to predict the offsite odour levels at nearby sensitive receptors. The dispersion modelling was based on an operational scenario, representing the typical worst-case odour emissions in Odour Units (OU). The 2 OU impact assessment criterion was adopted (which is the lowest criteria) as the site is located in an urban area. The results of the model predicted a 99th percentile odour concentration at the nearby residential receivers of between 0.2 OU (at all residential receivers) and 1.7 OU (at the sporting fields) which are below the 2 OU criterion.

The EPA reviewed the modelling and did not raise any concerns and recommended conditions of consent including constructing the landfill cells in accordance with the NSW Landfill Guidelines and updating the site's Landfill Environmental Management Plan. No public submissions raised concerns with odour.

The Applicant proposed odour mitigation measures including restricting the active tip face of the cells, the placement of daily cover on the active tip face at a depth of 150 mm at the close of each business day, and the use of intermediate cover on areas awaiting final capping. These mitigation measures are common in landfill operations to limit the amount of waste exposed to the air and decrease the odour potential of the site.

6.3.3 Department's Assessment

The Department is satisfied the air quality impacts of the development were conservatively modelled in accordance with the Approved Methods. The Department notes the EPA was satisfied with the Applicant's response on air quality in the RtS. Notably, the Applicant revised the design of the RRF to enclose waste processing and stockpiling activities which is expected to significantly reduce the risk of offsite air quality impacts. The Applicant also proposed real-time air quality monitoring to enable active management of any exceedances of air quality criteria. Further, the proposed odour mitigation measures, particularly managing the active tipping face of the WDF, have resulted in odour impacts below the criteria at the playing fields directly adjoining the site, and significantly below the criteria at the nearest residential receivers. The Department considers the dust and odour mitigation and management measures proposed by the Applicant are appropriate and has incorporated these into recommended conditions. To further manage and mitigate particulate and odour emissions for the construction and operations stages, the Department has recommended the Applicant prepare an Air Quality Management Plan (AQMP). With these conditions in place, the Department's assessment concludes the air quality impacts of the development would be adequately minimised, monitored and managed.

6.4 Contamination

The proposal includes the construction and operation of the Marang Parklands which is considered a sensitive land use on land which has historically been used for landfilling. Landfilling is an activity that may cause contamination identified in Table 1 of the Department's former SEPP 55 – Remediation of Land Guidelines.

Clause 4.6(1) of *State Environmental Planning Policy (Resilience and Hazards) 2021* (RS SEPP) states that a consent authority must not consent to the carrying out of any development on land unless [...]
(b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.*

The EIS included a Contamination Status Report (the Report) prepared by GHD which provided a desktop review of previous soil, landfill gas and surface and groundwater water investigations and

collection of some additional surface water samples. The Report provided the following findings and conclusions:

- available soil data from stockpiled recovered fines and recovered aggregate indicate that contaminant concentrations meet the analytical thresholds in their respective exemptions and are all below adopted human health criteria for current and future use (recreation / public open space and commercial)
- ammonia, heavy metals and petroleum hydrocarbons were identified in groundwater and surface water in excess of 95% species protection for marine ecological receptors
- ground gases (methane and carbon dioxide) were present above adopted trigger levels in the waste mass (of the existing landfills)
- data gaps in the available information including a lack of information on potential hot spots of contamination including asbestos and the presence of PFAS and PCBs in the existing landfills.

The Report concluded that the data gaps were of low significance and GHD could not find any direct links between leachate from the landfills and the elevated levels of contaminants in the groundwater and suggested the extensive industrial uses within Botany Bay could be the cause.

The Report also concluded that through the implementation of a landfill closure plan, the site could be made suitable for the proposed Parklands use.

The EPA reviewed the Report and suggested it did not have sufficient data to provide a holistic picture of contamination risks to the development area. The EPA required the following additional information after reviewing the EIS and RtS:

- preparation of a detailed Contamination Assessment in accordance with the NSW EPA (2020) Consultants Reporting on Contaminated Land guidelines
- engagement of an NSW EPA-accredited contaminated site auditor to review the adequacy of the contamination assessment reports and plans for the development and issue a Section A Site Audit Statement (SAS) and an accompanying Site Audit Report (SAR).

The Department as the consent authority conferred with the EPA and reiterated to the Applicant the importance of having a detailed and verified understanding of contamination on the site and remediation requirements prior to the determination of the application to ensure the site can be made suitable for an ongoing and public sensitive land use.

As required by the Department and the EPA, the Applicant engaged a Site Auditor from Senversa and GHD prepared a Remedial Action Plan (RAP). In April of 2024, the RAP, SAS and SAR were submitted to the Department.

The RAP detailed the proposed remediation program including the progressive capping of the former and active landfills, installation of a landfill gas collection and venting system and preparation and implementation of a Long Term Environmental Management Plan (LTEMP). The RAP proposes that the area to be utilised for the RRF would be filled with engineered fill to a minimum elevation to allow

construction and operation of the facility. The RAP concluded that the site could be made suitable for the intended land uses (open space and commercial / industrial uses) subject to the implementation of the remediation program.

Following a review of the RAP and various contamination and groundwater assessments carried out for the site during the historic landfilling activities and to support the development, the Site Auditor concurred with the conclusions of the RAP and certified in the SAS that the site can be made suitable for open space and commercial / industrial uses subject to the:

- implementation of a Landfill Gas Sampling Analysis and Quality Plan (SAQP) and Landfill Risk Gas Assessment
- preparation of a Validation SAQP Final Design and Specification outlining validation and remediation requirements for the final capping design, material movement, landfill gas mitigation and validation/verification works
- preparation of a Construction Environmental Monitoring Plan, Groundwater Management Plan (if dewatering/abstraction proposed), and if required an Asbestos Management Plan and Acid Sulfate Soil Management Plan
- remediation in accordance with the RAP, Final Design and Specification and successful validation of those works in line with the Validation SAQP
- preparation of an appropriate LTEMP (s) at the completion of the works.

6.4.1 Department's Assessment

Prior to the determination of the application, the Department is required under SEPP (Resilience and Hazards) 2021 to have surety that the site could be made suitable for the intended land use including a regional parkland which would provide open space and recreational areas for the community. The site auditor scheme has an important role in this regard and the Department and the EPA's insistence that the Applicant engage a Site Auditor is considered justified to ensure the ongoing health and safety of the future users of the Marang Parklands. The site has a long history of landfilling and therefore careful management of remediation and landfill closure, including capping design and landfill gas management, are necessary to ensure the site is suitable for the range of proposed land uses.

The submitted Site Audit Statement and Site Audit Report were prepared by an EPA-accredited Site Auditor who reviewed the available information and found that the site can be made suitable for the proposed land use subject to preparation of a Landfill Gas SAQP, Landfill Gas Risk Assessment, Validation SAQP Final Design and Specification, CEMP, Groundwater Management Plan, Asbestos Management Plan and Acid Sulfate Soil Management Plan.

The EPA and Department reviewed the RAP, SAS and SAR and were satisfied the site can be made suitable for the intended land use subject to remediation, landfill closure, and a detailed validation process with the involvement and verification of an EPA-accredited Site Auditor. The EPA provided recommended conditions of consent accordingly.

The Department has relied on the knowledge and expertise of the Site Auditor and the EPA in making a recommendation on the application. To this end, the Department has recommended stringent conditions of consent requiring the Site Auditor to oversee the remediation program including reviewing and certifying the plans and programs required in the SAS. Ultimately, the recommended conditions of consent require the Site Auditor to certify that following remediation, the site is suitable for the proposed open space and commercial / industrial uses prior to the construction of the Marang Parklands or the RRF through a further SAS.

The Department's assessment concludes that subject to the certification of the Site Auditor following remediation and implementation of the LTEMP, the potential contamination impacts of the site can be adequately managed to ensure ongoing public safety including for the future users of the Marang Parklands.

6.5 Other Issues

The Department's consideration of other issues is summarised in **Table 6** below.

Table 6 | Assessment of other issues

Findings and conclusions	Recommended conditions
Traffic	
<ul style="list-style-type: none"> Construction and operational traffic associated with the development has the potential to impact on the safety and efficiency of the surrounding road network. The EIS included a Traffic Impact Assessment (TIA) and a concept design and SIDRA analysis for a proposed roundabout at Lindum Road and the site entrance was provided in the RtS. <p>Site Access and Internal Circulation</p> <ul style="list-style-type: none"> Access to the site would be from Lindum Road which is to be upgraded to include a two-way carriageway to the end of the site driveway with a roundabout to provide continued access to the sporting fields and to the land to the east including Boat Harbour Park. Council did not raise any issues with the intersection design and recommended conditions requiring the upgrade of Lindum Road to continue past the site driveway and a minimum of 20 (parking spaces to cater for users of the Cronulla State Park to the south. The Department considers the proposed access arrangements are appropriate and has imposed conditions requiring construction of the Lindum Road extension and roundabout prior to operation of the RRF. The Department has not recommended a condition requiring additional car spaces on Lindum Road as there is no clear nexus between the SSD and the need for public car parking spaces. <p>Construction and Operational Traffic</p> <ul style="list-style-type: none"> The TIA included a cumulative assessment of construction and operational traffic as the landfill cells and other waste infrastructure would be constructed while the site is in full operation. The TIA concluded that with the expected future traffic generation of the development and other future development in the locality, the intersections would operate to an acceptable level of service (LoS) with the exception of Woollooware Road / Captain Cook Drive intersection which would have an LoS F. The TIA suggested this intersection would be expected to operate at 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> prepare a construction an OTMP construct the Lindum Road roundabout and extension in accordance with Council's requirements ensure all trucks have their loads covered and do not track dirt onto the public road network

Findings and conclusions	Recommended conditions
<p>an LoS F under baseline conditions and the development would only add a minor increase in delay.</p> <ul style="list-style-type: none"> • Council and TfNSW did not raise any issues with the traffic generation or future impact of the proposal on the road network. • Some public submissions raised concerns with future traffic volumes and potential impacts to existing pedestrian footpaths and other existing access arrangements from Lindum Road. These issues were considered by the Applicant in revisions to the design of the site entrance and roundabout including pedestrian connectivity provided in the RtS. • The Department considers the future traffic impact of the development would have a minor impact on the capacity of the Woollooware Road / Captain Cook Drive intersection which would not in itself trigger upgrades to the intersection. • The Department also considers the potential construction impact of the development would be much less than during full operation. • The Department has recommended conditions requiring the applicant to prepare a Construction Traffic Management Plan and an Operational Traffic Management Plan to ensure construction and operational traffic are appropriately managed. The Department has also required a condition requiring construction of the Lindum Road roundabout and extension to provide suitable operational access to the site. <ul style="list-style-type: none"> ◦ The Department's assessment concludes the traffic impact of the construction and operation of the development would not detrimentally impact the safety, capacity or efficiency of the surrounding road network subject to the recommended conditions. 	
Noise	
<ul style="list-style-type: none"> • The development has the potential to generate noise and vibration during construction and operation which could impact the amenity of the locality. • The Noise and Vibration Impact Assessment (NVIA) prepared by Wilkinson and Murray, was prepared in accordance with the EPA's Noise Policy for Industry (NPfI) and Interim Construction Noise Guidelines (ICNG). • The nearest residential receivers to the site are in the Greenhills Beach area, 1.5 km south-west of the site and the Kurnell Village, 2 km to the north-east. Other sensitive receivers include the playing fields to the north and the commercial area to the north-east of the site. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> • ensure noise from the development does not cause or permit offensive noise beyond the boundary of the site in accordance with the EPL

Findings and conclusions	Recommended conditions
<ul style="list-style-type: none"> The most significant noise sources proposed include the operation of mobile plant (dozers, excavators and tractors), the concrete crushing plant and trucks tipping their loads at the landfill. <p><u>Construction Noise</u></p> <ul style="list-style-type: none"> The NVIA established the cumulative construction noise levels (including the RRF and the Parklands) would comply with noise management levels calculated in accordance with the ICNG at all sensitive receivers. Concern regarding construction noise impacts was not raised in public submissions or by the EPA or Council. The NVIA suggested the vibratory rollers proposed in the construction of the RRF would pose the highest source of vibration and that given this, plant would only be used within safe working distances of sensitive structures and/or receivers on adjacent sites. As such, it is unlikely there would be vibration impacts as a result of the development. The Department considers the construction noise and vibration impacts would be acceptable subject to the implementation of the CEMP including standard construction noise mitigation measures. <p><u>Operational Noise</u></p> <ul style="list-style-type: none"> The NVIA modelled a worst-case operational scenario with plant operating at the top of the WDF and all plant operating simultaneously at the RRF. The NVIA predicted operations would comply with the established Noise Trigger Levels (NTL) of 37-40 dB(A) at all residential receivers and NTLs of 58-63 dB(A) at the playing fields and commercial area without any mitigation measures. The Department is satisfied the NVIA represents a conservative assessment of the cumulative impact of construction and operational noise. The RtS also identified that enclosure of the RRF is likely to have further reduced the noise levels below the modelled levels. The EPA did not raise concern with the potential noise impacts of the development and recommended the Applicant prepare an Operational Noise Management Plan. The Department's assessment concludes noise associated with the progressive construction and ongoing operation of the site would not be expected to impact any sensitive receivers subject to the implementation of the Applicant's proposed mitigation measures including maintaining plant and equipment, limiting drop heights of materials and enforcing on site speed limits which have been included in the consent. The Department has 	<ul style="list-style-type: none"> prepare a CEMP which includes a construction noise management plan prepare an Operational Noise Management Plan

Findings and conclusions	Recommended conditions
<p>also included an Operational Noise Management Plan be prepared as part of the OEMP.</p>	
Aboriginal Cultural Heritage	
<ul style="list-style-type: none"> • The EIS included an Aboriginal Cultural Heritage Assessment Report (ACHAR) prepared by Coast History and Heritage. • The AHAR did not identify any recorded or unrecorded Aboriginal archaeological remains, and no remains were confirmed to have survived within the site due to substantial disturbance from historical sand mining and landfilling. • The ACHAR suggested that the area around the proposed RRF retained some Aboriginal heritage sensitivity below the surface, but no Aboriginal items or objects were found in this area during field surveys. • The ACHAR concluded that the development would have no negative impacts on the Aboriginal cultural heritage in the study area. • The Applicant proposed a number of management measures to avoid potential impacts, including: <ul style="list-style-type: none"> ◦ preparation and implementation of an unexpected finds protocol for items or objects of Aboriginal heritage ◦ carry out Aboriginal heritage inductions for employees. • Heritage NSW reviewed the ACHAR and did not raise any concerns. The Department is satisfied the ACHAR has adequately considered potential impacts to Aboriginal cultural heritage. • The Department considers the potential for the development to pose impacts to Aboriginal heritage is low subject to the implementation of the recommended conditions including an unexpected finds protocol. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> • prepare and implement an unexpected finds protocol for items or objects of Aboriginal heritage.
Biodiversity	
<ul style="list-style-type: none"> • The development has the potential to impact native flora and fauna through the removal of native vegetation to construct the RRF and Marang Parklands. • An amended Biodiversity Development Assessment Report (BDAR) was prepared following BCS's request for information and found the development would impact 7.53 ha of native vegetation that represent dispersal habitat for the Green and Gold Bell Frog (GGBF) and two PCTs: <ul style="list-style-type: none"> ◦ PCT 661 – Bangalay – Smooth-barked Apple 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> • secure and retire the required species credits prior to the construction of the RRF. • protect native vegetation on site

Findings and conclusions	Recommended conditions
<ul style="list-style-type: none"> ○ PCT 772 – Coast Banksia • The vegetation integrity score for each PCT was found to be below the minimum thresholds and therefore no offsets are required for native vegetation. • Following a request from BSC, an amended BDAR was provided that assessed the potential stormwater impacts on the Towra Point Nature reserve (a RAMSAR wetland). The BDAR concluded the new stormwater management and leachate collection system for the RRF and WDF would improve the water quality of the wetland through a significant reduction in the volume of surface runoff and infiltration. • The amended BDAR proposed mitigation measures to manage potential impacts on native vegetation in the locality, including: <ul style="list-style-type: none"> ○ temporary fencing to protect significant environmental features ○ monitor retained vegetation for invasive weeds ○ ecological restoration of retained native vegetation. • BCS reviewed the revised BDAR and required further information from the Applicant regarding the targeted survey for the GGBF, surveys for the Coast Groundsel plant species and impacts on groundwater dependent ecosystems. • The Applicant submitted a further BDAR that clarified the survey methodology for the GGBF. The BDAR found that the site may provide dispersal habitat for the Green and Golden Bell Frog, however it would be an unsuitable breeding habitat. No offsets were identified as being required for GGBF. The revised BDAR assumed the presence of Coast Groundsel as a survey was not undertaken for this species. Additionally, the White Fronted Chat was assumed to be present due to the presence of potential foraging and breeding habitat. The BDAR concluded offsets for two species were required, including 11 species credits for the White Fronted Chat and 11 species credits for Coast Groundsel. • BCS advised that its previous concerns had been addressed and recommended conditions of consent requiring: <ul style="list-style-type: none"> ○ preparation of a landscape plan including densities of native vegetation to mimic the surrounding native vegetation ○ frog-proof fencing, pre-construction clearance and any other measures necessary to minimise the likelihood of GGBF entering or being harmed during construction on the subject site 	<p>during construction and operation of the development.</p> <ul style="list-style-type: none"> • prepare a detailed landscape plan prioritising native vegetation planting and manage these plantings as part of the OEMP.

Findings and conclusions	Recommended conditions
<ul style="list-style-type: none"> ○ measures to ensure that the development does not compromise the construction and ongoing functionality of GGBF breeding habitat(s) required under DA11/066 or any other preceding DAs ○ the CEMP and OMEP for the development to include restrictions on fertiliser and pesticide use in the Marang Parklands, lighting restrictions and access restrictions to the Towra Point Nature Reserve ○ the purchase and retirement of 11 species credit requirements for each of the white fronted chat and coast groundsel • The Department considers the Applicant has provided adequate consideration of the potential impacts on NSW and Commonwealth listed species and has developed appropriate mitigation measures for managing residual impacts including securing the required ecosystem credits prior to clearing native vegetation. The Department agrees with BCS's requirements and has included these in the recommended conditions of consent. • The Department's assessment concludes the biodiversity impacts of the development would be appropriately minimised, managed and offset subject to adherence to the recommended conditions of consent. 	
Fire and Incident Management	
<ul style="list-style-type: none"> • The development would accept, process and separate combustible waste materials which are considered to be 'special hazards' under Clause E1.10 and E2.3 of the National Construction Code (NCC). • The EIS included a Fire and Incident Management Review prepared by GHD and the facility has been designed to be consistent with the NCC and the Fire Safety in Waste Facilities guideline (FRNSW, 2020) (Fire Safety Guidelines). • FRNSW did not raise any concerns with the proposal and recommended conditions requiring the preparation of a Fire Safety Study (FSS) and an Emergency Response Plan (ERP). • The Department is satisfied with the information provided by the Applicant and notes FRNSW did not raise any concerns. The Department has included FRNSW's recommendations in the recommended conditions of consent and requires further consultation with FRNSW in the preparation of the FSS. • The Department has also required the Applicant to design, install and operate the development to meet the requirements of the Fire Safety 	<p>Require the Applicant to</p> <ul style="list-style-type: none"> • design, install and operate the development to meet the requirements of the Fire Safety Guidelines or as otherwise directed by FRNSW in the brief questionnaire process. • prepare an FSS in consultation with FRNSW and to the satisfaction of the Secretary.

Findings and conclusions	Recommended conditions
<p>Guidelines, or as otherwise approved by FRNSW as a recommended condition of consent.</p> <ul style="list-style-type: none"> The Department's assessment concludes the development will satisfactorily address fire safety requirements, subject to the recommended conditions of consent. 	
Compliance with NSW Energy from Waste Policy Statement	
<ul style="list-style-type: none"> The NSW Energy from Waste Policy (EfWP) Statement is applicable to the development as the RRF would separate Solid Recovered Fuel (SRF) from the residual wastes to be used as a fuel at an energy recovery facility. The EfWP limits the amount of waste received at an RRF processing mixed C&D and C&I waste and requires stringent quality controls at processing facilities to ensure contaminants such as batteries and hazardous waste is not found in SRF. A contract with a specific energy recovery facility is yet to be secured. Should this not eventuate, the Applicant has suggested the residual waste would be landfilled and the SRF production facility would not be utilised. In response to the EIS, the EPA requested a detailed assessment of the proposal's compliance with the EfWP. The EfWP response prepared by GHD, detailed that the RRF would produce 65,000 tpa of SRF which is below the residual waste allowances in the EfWP. The response also detailed quality control measures which would be implemented to avoid contaminants and committed to preparing an Energy from Waste Management Plan. The EPA was satisfied with the Applicant's response. The Department's assessment finds that the development could operate in compliance with the EfWP. The Department has recommended a condition of consent requiring the preparation of an EfW Management Plan in consultation with the EPA and including a specifications, sampling and testing regime performed by a third-party National Association of Testing Authorities (NATA) accredited laboratory. The Department's assessment concludes that subject to adherence to the recommended conditions of consent and the Applicant's testing and monitoring commitments, the EfWP component proposed is acceptable. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> prepare an EfW Management Plan including a specifications, sampling and testing regime performed by a third-party NATA accredited laboratory.

7 Evaluation

The Department's assessment of the application has fully considered all relevant matters under section 4.15 of the EP&A Act, the objects of the EP&A Act and the principles of ESD.

The Department has considered the development on its merits, taking into consideration strategic plans that guide development in the area, the EPIs that apply to the development, advice received from the relevant public authorities, including Council, and submissions from the public.

The Department has sought to address any issues raised through consultation with both the government authorities and the Applicant. Council withdrew their objection in consideration of the RtS and following the execution of a Planning Agreement for the delivery of the Marang Parklands.

The Department considers the issues raised in the public submissions have been addressed in the RtS or can be addressed in the ongoing operation of the RRF and WDF through the recommended conditions of consent.

The proposal would provide a contemporary RRF to assist in achieving the NSW Government's targets for diverting waste from landfill. The proposal would also deliver a new regional parkland for the benefit of the entire Sutherland Shire community to be supported through ongoing levies and materials from the RRF.

The Department considers the visual impacts of the development can be mitigated through the establishment of a viewing platform in the Marang Parklands. The Department also notes the proposed viewing platform in the Marang Parklands would be accessible to the public via new walking trails within the Parklands.

The Department is satisfied the potential leachate, surface water and groundwater impacts of the development have been adequately assessed and suitable leachate and stormwater systems have been proposed to manage and reduce leachate production and avoid groundwater contamination.

The Department is also satisfied the potential air quality and odour impacts of the development have been appropriately addressed by the Applicant and the relevant criteria would be achieved at all sensitive receivers during a worst-case scenario of the RRF and WDF operating at full capacity.

The Site Auditor in the SAS has provided the Department surety that the site can be made suitable for the Marang Parklands and the RRF following the completion of remediation program in the RAP.

The Department has recommended a range of conditions to manage the residual impacts of the development in consultation with government agencies. The Department's assessment has concluded the development is in the public interest and should be approved, subject to conditions.

8 Recommendation

For the purpose of section 4.38 of the EP&A Act, it is recommended that the A/Executive Director, Energy, Resources and Industry Assessments, as delegate of the Independent Planning Commission:

- **considers** the findings and recommendations of this report
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants consent** for the application in respect of Breen Resource Recovery Facility and Marang Parklands (SSD-10412), subject to the conditions in the attached development consent
- **signs** the attached development consent (**Appendix E**).

Recommended by:



Rebecka Groth 29 October 2024
Senior Environmental Assessment Officer
Industry Assessments

Recommended by:



Joanna Bakopanos 30 October 2024
A/Director
Industry Assessments

9 Determination

The recommendation is **adopted** by:



Chris Ritchie 13 November 2024

A/Executive Director

Energy, Resources and Industry Assessments

Glossary

Abbreviation	Definition
ACHAR	Aboriginal Cultural Heritage Assessment Report
Additional Information	<ul style="list-style-type: none"> • Additional information provided by the Applicant following the submission of the RTS including: • Site Audit Report, Portion of 330 Captain Cook Drive, Kurnell, prepared by Senversa, dated 12 April 2024 (audit reference number MP196) • Site Audit Statement, MP_0803, prepared by Senversa • Remediation Action Plan, Breen Resource Recovery Facility, prepared by GHD, dated 22 December 2023 (revision 1) • Revised Biodiversity Development Assessment Report, Breen Resource Management Facility, prepared by ecological Australia and dated 1 May 2024 (version 11) • Response prepared by Ethos Urban dated 2 May 2024 • Voluntary Planning Agreement between Sutherland Shire Council and Breen Resources Pty Ltd, 330 Captain Cook Drive, Kurnell dated 17 February 2023 • Response prepared by Ethos Urban dated 30 July 2021 • Response prepared by Ethos Urban dated 20 August 2024 • Response prepared by Ethos Urban dated 28 August 2024 • Response prepared by Ethos Urban dated 16 September 2024 • <i>Breen Resource Management Facility, Biodiversity Development Assessment Report, Breen Resources Pty Ltd</i>, prepared by Ecological and dated 18 October 2024 (revision 13)
AHD	Australian Height Datum
Applicant	Breen Resources Pty Ltd
AQIA	Air Quality Impact Assessment
BCS	Biodiversity Conservation and Science group of the NSW Department of Climate Change, Energy, the Environment and Water
BDAR	Biodiversity Development Assessment Report
CIV	Capital Investment Value
Council	Sutherland Shire Council
DA	Development Application

Abbreviation	Definition
Department	Department of Planning, Housing and Infrastructure (DPHI)
Development	The development as described in the EIS, RtS and additional information for the construction of the Breen Resource Recovery Facility and Marang Parklands
EIS	Environmental Impact Statement titled <i>Environmental Impact Statement Captain Cook Drive, Kurnell Breen Resource Management Facility</i> prepared by Ethos Urban and dated 8 July 2021
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
NCC	National Construction Code
DCCEEW	NSW Department of Climate Change, Energy, the Environment and Water
Planning Systems SEPP	State Environmental Planning Policy (Planning Systems) 2021
Planning Secretary	Secretary of the Department

Abbreviation	Definition
RTS	Response to Submissions titled <i>Response to Submissions SSD-10412 Breen Resource Recovery Facility Captain Cook Drive, Kurnell</i> prepared by Ethos Urban and dated 16 December 2022
SEARs	Planning Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SSD	State Significant Development
TfNSW	Transport for NSW
WDF	Waste Disposal Facility
WSM Strategy	NSW Waste and Sustainable Materials Strategy 2041

Appendices

Appendix A – List of Referenced Documents

The Department has relied upon the following key documents during its assessment of the development:

Environmental Impact Statement

- Environmental Impact Statement titled *Environmental Impact Statement Captain Cook Drive, Kurnell Breen Resource Management Facility* prepared by Ethos Urban and dated 8 July 2021

Submissions

- All submissions and advice received from relevant public authorities, Council and the general public

Submissions Report

- *Response to Submissions SSD-10412 Breen Resource Recovery Facility Captain Cook Drive, Kurnell* prepared by Ethos Urban and dated 16 December 2022

Additional Information

- Site Audit Report, Portion of 330 Captain Cook Drive, Kurnell, prepared by Senversa, dated 12 April 2024 (audit reference number MP196)
- Site Audit Statement, MP_0803, prepared by Senversa
- Remediation Action Plan, Breen Resource Recovery Facility, prepared by GHD, dated 22 December 2023 (revision 1)
- *Revised Biodiversity Development Assessment Report, Breen Resource Management Facility*, prepared by ecological Australia and dated 1 May 2024 (version 11)
- Response prepared by Ethos Urban dated 2 May 2024
- *Voluntary Planning Agreement between Sutherland Shire Council and Breen Resources Pty Ltd, 330 Captain Cook Drive, Kurnell* and dated 17 February 2023
- Response prepared by Ethos Urban dated 30 July 2021
- Response prepared by Ethos Urban dated 20 August 2024
- Response prepared by Ethos Urban dated 28 August 2024
- Response prepared by Ethos Urban dated 16 September 2024

- *Breen Resource Management Facility, Biodiversity Development Assessment Report, Breen Resources Pty Ltd*, prepared by Ecological and dated 11 October 2024 (revision 12)
- *Breen Resource Management Facility, Biodiversity Development Assessment Report, Breen Resources Pty Ltd*, prepared by Ecological and dated 18 October 2024 (revision 13)

Statutory Documents

- Relevant considerations under section 4.15 of the EP&A Act (see Appendix D)
- Relevant environmental planning instruments, policies and guidelines (see Appendix D)

All documents relied upon by the Department during its assessment of the application may be viewed at: insert link to major projects page project page:

<https://www.planningportal.nsw.gov.au/major-projects/projects/breen-resource-recovery-facility>

Appendix B – Submissions and Government Authority Advice

All submissions and government authority advice can be found here:
<https://www.planningportal.nsw.gov.au/major-projects/projects/breen-resource-recovery-facility>

Appendix C – Community Views for Draft Notice of Decision

Table 7 | Key issues and how they have been considered

Issue	Consideration
<p>Air quality</p> <p><i>Concerns regarding the potential for air quality impacts adversely impacting residential receivers and surrounding recreational areas.</i></p>	<ul style="list-style-type: none"> air quality modelling predicted the worst-case impacts of the development would not exceed the relevant air quality criteria at all residential receivers and only slight exceedances would be expected for the 24-hour criteria for up to three days a year at the sporting fields to the north of the site noting the concerns in public submissions regarding air quality and advice from the EPA, the Department requested that the Applicant fully enclose the waste processing and storage activities the Applicant revised the proposal to enclose all waste processing and storage activities at the resource recovery facility (with the exception of a 30 m x 30 m area for soil drying) an addendum air quality impact assessment concluded the proposed design changes would be expected to reduce particulate emissions from the operation of the RRF by more than 50% the Department is satisfied the enclosure of the waste processing and storage activities would limit the potential for adverse air quality impacts at sensitive receivers. <p>Recommended conditions/response:</p> <ul style="list-style-type: none"> require the Applicant to: <ul style="list-style-type: none"> store, handle and process all waste within an enclosed building (with the exception of some soil drying) not permit any offensive odour beyond the boundary prepare and implement an air quality management plan.
<p>Traffic</p> <p><i>Concerns about the number of truck movements required to facilitate the development and potential impact on the road network.</i></p>	<ul style="list-style-type: none"> the traffic impact assessment found that with the expected future traffic generation of the development and other future development in the locality, all the intersections would operate to an acceptable level of service with the exception of Woollooware Road / Captain Cook Drive intersection which would continue to operate poorly. The traffic impact assessment suggested the development would only add a minor increase to delays at this intersection.

Issue	Consideration
	<ul style="list-style-type: none"> the new Planning Agreement requires the Applicant to pay a levy to Council for the upkeep of the local road network the Department is satisfied that the future traffic impact of the development would have a minor impact on the capacity of the Woollooware Road / Captain Cook Drive intersection. the Department's assessment concluded the traffic impact associated with the operation of the development would not detrimentally impact the safety, capacity or efficiency of the surrounding road network. <p>Recommended conditions/response:</p> <ul style="list-style-type: none"> require the Applicant to prepare a construction traffic management plan and an operational traffic management plan
<p>Noise</p> <p><i>Potential for noise impacts during operation.</i></p>	<ul style="list-style-type: none"> the amended noise and vibration impact assessment predicted operational noise impacts would comply with the Project Noise Trigger Levels for all sensitive receivers the EPA did not raise any issues with the potential noise impacts of the development the Department's assessment concluded noise associated with the progressive construction and ongoing operation of the site would not be expected to impact any sensitive receivers. <p>Recommended conditions/response:</p> <ul style="list-style-type: none"> require the Applicant to: <ul style="list-style-type: none"> maintain plant and equipment, limit drop heights of the materials and enforce site speed limits prepare an operational noise management plan and comply with operational noise limits at all existing residential receivers and the playing fields (when in use)
<p>Planning pathway</p> <p><i>One objector suggested that the components of the project were not sufficiently related to allow the determination of the entire proposal under an SSD application</i></p>	<ul style="list-style-type: none"> the resource recovery facility will produce materials for construction and ongoing maintenance of the Marang Parklands, the landfill accepts residual waste from the resource recovery facility, the proximity and connectivity between the components delivers operational efficiencies regarding access to plant equipment and personnel, the management of groundwater is linked across the site, and the components can share a common construction vehicle access.

Issue	Consideration
	<ul style="list-style-type: none"> the Department is satisfied there is an interrelationship between the Marang Parklands, the resource recovery facility and the waste disposal facility. The Department is satisfied that all components of the proposal can be considered under one SSD application. <p>Recommended conditions/response:</p> <ul style="list-style-type: none"> N/A
<p>Future Planning Proposal</p> <p><i>One objector noted the submission of a Planning Proposal and suggested the impacts of the RRF and WDF on nearby potential future receivers has not been assessed.</i></p>	<ul style="list-style-type: none"> the Department has noted the Besmaw planning proposal in the assessment report, including that it was lodged in 2023, after the Breen SSD application, and is currently under assessment with the Department. It is also noted that the planning proposal documentation included a layout and staging plan that responded to the Breen SSD to reduce the potential for land-use conflicts. <p>Recommended conditions/response:</p> <ul style="list-style-type: none"> N/A
<p>Parklands delivery</p> <p><i>Concern were raised regarding the delay in the delivery of the Marang Parklands</i></p>	<ul style="list-style-type: none"> the 2010 Planning Agreement required the Marang Parklands and other recreational facilities to be delivered by 2020. However, to date only three playing fields, a skate park and associated infrastructure have been delivered by the Applicant. The existing waste facility continues to operate within several areas of the Applicant's landholdings the new Planning Agreement has been executed by the Applicant and Council and provides revised timeframes for the delivery of the Marang Parklands and other recreational facilities not subject to this SSD application the Department has recommended the approval of the development which would facilitate the delivery of the Marang Parklands. Other recreational facilities would be delivered under Council approvals. <p>Recommended conditions/response:</p> <ul style="list-style-type: none"> require the Applicant to: <ul style="list-style-type: none"> achieve the timeframes established in the new Planning Agreement to the satisfaction of Council

Issue	Consideration
	<ul style="list-style-type: none"> ○ ensure the site has been made suitable for open space and recreation uses prior to the use of the Marang Parklands by requiring the submission of an SAR and SAS by a Site Auditor.

Appendix D – Statutory Considerations

Table 8 | Mandatory Matters for Consideration

Matter for Consideration	Department's Assessment
Environmental planning instruments, proposed instruments and development control plans	The Department's consideration of the relevant EPIs (including draft instruments subject to public consultation under the EP&A Act) is provided in Appendix D below.
Planning agreements	A Planning Agreement was executed between Council and the Applicant on 17 February 2023.
EP&A Regulation	The Department has assessed the development in accordance with all relevant matters prescribed by the EP&A Regulation, the findings of which are contained in this report.
Likely impacts	The Department has considered the likely impacts of the development in detail in Section 6 of this report. The Department concludes that all environmental impacts can be appropriately managed and mitigated through the recommended conditions of consent.
Suitability of the site	The proposal is for a new RRF, WDF and Marang Parklands. Most of the proposal is permitted with development consent. The processing of C&I waste is considered partly prohibited in the zone but represents a small portion of the proposal.
Public submissions	All matters raised in submissions have been summarised in Section 5 of this report and given due consideration as part of the assessment of the development in Section 6 of this report.
Public interest	<p>The development would generate up to 80 jobs during construction and 90 jobs during operation. The development represents a considerable capital investment in the Sutherland Shire LGA that would contribute to the provision of local jobs.</p> <p>The environmental impacts of the development would be appropriately managed via the recommended conditions. On balance, the Department considers the development is in the public interest.</p>

Objects of the EP&A Act

A summary of the Department's consideration of the relevant objects (found in section 1.3 of the EP&A Act) are provided in **Table 10** below.

Table 9 | Objects of the EP&A Act and how they have been considered

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	<ul style="list-style-type: none"> The development would promote the social and economic welfare of the community by recycling resources for beneficial reuse and providing a capital investment of \$48.9 million and 120 jobs in the local area.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	<ul style="list-style-type: none"> The Department's assessment has considered all socio-economic and environmental considerations in a single holistic assessment and is satisfied the development can avoid potentially serious or irreversible environmental damage while providing tangible socio-economic and environmental benefits. The Department is satisfied that the development can be carried out in a manner that is consistent with the principles of ESD.
(c) to promote the orderly and economic use and development of land,	<ul style="list-style-type: none"> The development would ensure the orderly and economic use of 7(b) Special Development zoned land for an RRF and associated WDF which would support existing and future industrial and recreational uses in the locality.
(d) to promote the delivery and maintenance of affordable housing,	<ul style="list-style-type: none"> Not relevant.
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	<ul style="list-style-type: none"> The Department's assessment in Section 6 of this report demonstrates that with the implementation of the recommended conditions of consent, the impacts of the development could be mitigated and/or managed to ensure an acceptable level of environmental performance.

Object	Consideration
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	<ul style="list-style-type: none"> The EIS included an Aboriginal Cultural Heritage Assessment Report (ACHAR) which did not identify any Aboriginal heritage items as well as negligible potential for surface and subsurface Aboriginal archaeological artefacts
(g) to promote good design and amenity of the built environment,	<ul style="list-style-type: none"> The development has been designed to meet fire safety and NCC requirements, including Fire Safety in Waste Facilities (FRNSW, 2020) guideline (Fire Safety Guidelines).
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	<ul style="list-style-type: none"> The Department has recommended conditions of consent requiring the development be constructed in accordance with the NCC.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	<ul style="list-style-type: none"> The Department has assessed the development in consultation with, and giving due consideration to, the technical expertise and comments provided by Council and other Government agencies, thereby sharing the responsibility for environmental planning between the different levels of government in the State.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	<ul style="list-style-type: none"> The development application was exhibited in accordance with clause 9 of Schedule 1 of the EP&A Act to provide public involvement and participation in the environmental planning and assessment process. The Department publicly exhibited the application as outlined in Section 5 of this report, which included notifying adjoining landowners and displaying the application on the Department's website.

Ecologically Sustainable Development

The EP&A Act adopts the definition of ecologically sustainable development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle.

- inter-generational equity.
- conservation of biological diversity and ecological integrity.
- improved valuation, pricing and incentive mechanisms.

The potential environmental impacts of the development have been assessed and, where potential impacts have been identified, mitigation measures and environmental safeguards have been recommended.

As such, the Department considers that the development would not adversely impact on the environment and is consistent with the objectives of the EP&A Act and the principles of ESD.

EP&A Regulation

Division 1 of the EP&A Regulation requires the consent authority to consider additional matters for certain developments as part of the matters for consideration under section 4.15 of the EP&A Act.

There are no additional matters in Division 1 of the EP&A Regulation that the consent authority must consider.

Environmental Planning Instruments (EPIs)

State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP)

The Planning Systems SEPP identifies certain classes of development as SSD. The proposal is SSD pursuant to section 4.36 of *Environmental Planning and Assessment Act 1979* (EP&A Act) because it involves development for the purpose of a RRF that has capacity to receive more than 100,000 tpa of waste, as per the criteria in Clause 23 of Schedule 1 in the Planning Systems SEPP.

The components of the proposal which are not considered SSD under the PS SEPP are the WDF and the construction and operation of the Marang Parklands. The Applicant has included these components of the development in the SSD application under clause 2.6(2)(b) of the PS SEPP and have contended that they are sufficiently related to the RRF. The Department has concurred with the Applicant and accepted the full proposal under this SSD application, for the following reasons:

- the proposed operation of the WDF and expansion of the Lot 5 landfill is considered to be ancillary and complimentary to the operation of the RRF as only residual wastes from the RRF would be landfilled at the WDF. The WDF is also located immediately adjacent to the RRF and can only be accessed through the RRF site. For these reasons, the WDF is considered intrinsically tied to the RRF.
- the Marang Parklands would be constructed in part utilising materials and soils which are produced from the RRF and through the new VPA, Breen would provide \$1 for every tonne of waste processed at the RRF to assist in funding Council's ongoing maintenance of the

Parklands. The Department therefore considers the Marang Parklands to be complementary to the RRF.

State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP)

Chapter 2 of the T&I SEPP aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to certain types of infrastructure development, and providing for consultation with relevant public authorities about certain types of development during the assessment process.

The Department consulted with TfNSW as part of its assessment of the application. TfNSW's comments are detailed in **Section 5**.

The Department has consulted and considered the comments from TfNSW and where applicable, has included TfNSW's requirements in the recommended conditions of consent.

State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)

The Resilience and Hazards SEPP aims to identify developments with the potential for significant offsite impacts, in terms of risk and/or offence. A development is defined as potentially hazardous and/or potentially offensive if, without mitigating measures in place, the development would have significant risk and/or adverse impact on offsite receptors. The development would not require the storage of quantities of dangerous goods in excess of the triggers established in the Department's Applying (the former) SEPP 33 Guidelines and therefore a Preliminary Hazard Analysis (PHA) was not required.

Chapter 4 of the SEPP aims to ensure that potential contamination issues are considered in the determination of a development application.

The proposal includes the construction and operation of the Marang Parklands which is considered a sensitive land use on land which has historically been used for landfilling which is an activity that may cause contamination identified in Table 1 of DPHI's former SEPP 55 – Remediation of Land Guidelines.

Clause 4.6(1) of the SEPP states that a consent authority must not consent to the carrying out of any development on land unless [...] (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out*. The Department and the EPA required the Applicant to submit an SAR and SAS to provide a verified understanding of contamination on the site and remediation requirements prior to the determination of the development and to ensure the site can be made suitable for an ongoing and public sensitive land use.

As required by the Department and the EPA, the Applicant engaged a Site Auditor from Senversa and GHD prepared a Remedial Action Plan (RAP). In April of 2024, the RAP, SAS and SAR were submitted to the Department.

The RAP detailed the proposed remediation program including the progressive capping of the former and active landfills, installation of a landfill gas collection and venting system and preparation and implementation of a Long Term Environmental Management Plan (LTEMP).

The Site Auditor concurred with the conclusions of the RAP and certified in the SAS that the site can be made suitable for open space and commercial / industrial uses subject to a number of recommendations.

To ensure the site can be made suitable for the proposed open space and commercial / industrial uses prior to the construction of the Marang Parklands or the RRF, the Department has recommended stringent conditions of consent requiring the Site Auditor to oversee the remediation program including reviewing and certifying the plans and programs required in the SAS.

Appendix E – Recommended Instrument of Consent

<https://www.planningportal.nsw.gov.au/major-projects/projects/breen-resource-recovery-facility>