

Remondis Resource Recovery Facility, Tomago

State Significant Development Assessment SSD-10447

October 2021



Published by the NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Remondis Resource Recovery Facility, Tomago

Subtitle: State Significant Development Assessment SSD-10447

Cover image: Aerial Image of Site – Environmental Impact Statement – Remondis Australia Pty Ltd Tomago Resource Recovery Facility and Truck Parking Depot (SSD-10447), December 2020, prepared by Jackson Environment and Planning Pty Ltd

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Glossary

Abbreviation	Definition
ACHAR	Aboriginal Cultural Heritage Assessment Report
AEP	Annual Exceedance Probability
Applicant	Remondis Australia Pty Ltd
BCA	Building Code of Australia
BDAR	Biodiversity Development Assessment Report
CIV	Capital Investment Value
Council	Port Stephens Council
DA	Development Application
Department	Department of Planning, Industry and Environment
Development	The development as described in the EIS and RTS for the construction and operation of the Resource Recovery Facility, Tomago
DPIE	Department of Planning, Industry and Environment
EESG	Environment, Energy and Science Group
EIS	Environmental Impact Statement titled “ <i>Remondis Australia Pty Ltd Tomago Resource Recovery Facility and Truck Parking Depot (SSD-10447)</i> ” prepared by Jackson Environment and Planning Pty Ltd, dated December 2020
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
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 and Minister for Transport and Roads

Abbreviation	Definition
NRAR	Natural Resources Access Regulator, DPIE
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
RMS	Roads and Maritime Services, TfNSW
RTS	Response to Submissions titled “ <i>Response to Submissions Report Remondis Australia Pty Ltd Tomago Resource Recovery Facility and Truck Parking Depot (SSD-10447)</i> ” prepared by Jackson Environment and Planning, dated June 2021 and Supplementary Information including updated Waste Minimisation and Management Plan and Addendum Traffic Impact Assessment submitted 13 August 2021
SEARs	Planning Secretary’s Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for NSW

Executive Summary

Introduction

Remondis Australia Pty Ltd (the Applicant) proposes to develop a Resource Recovery Facility (RRF) at Tomago in the Port Stephens local government area (LGA). The RRF would process up to 98,201 tonnes per annum (tpa) of solid and liquid wastes from domestic, commercial, industrial and construction sources.

This report details the Department of Planning, Industry and Environment's (the Department) assessment of the State significant development application (SSD 10447) for the Remondis RRF.

The proposed development (the development) is in an industrial area of Tomago that was previously used for an aluminium and rod conductor manufacturing plant. The site contains two empty industrial buildings and a workshop that were built in 2012 and were used until 2017.

The Development

The Applicant proposes to use the existing industrial buildings and workshop for a RRF and truck parking depot. The development is located on 4.08 hectares of industrial zoned land and would include:

- remediation of contaminated soil hotspots on the site and on-going groundwater monitoring
- installation of waste processing equipment inside the two buildings and construction of a weighbridge, truck parking area and storage tanks
- operation of a resource recovery facility processing mixed recyclable materials, cardboard, drill muds, packaged food, garden organics, hazardous materials, copper and other metals.

The Applicant proposes to operate the facility 24 hours, 7 days a week. The development has a capital investment value of \$8.9 million and would generate 76 operational jobs and 15 construction jobs.

Strategic Context

International markets for recycling have changed in recent years with options to export waste materials for recycling no longer available. This has created a demand for increased recycling capacity in Australia and a need for investment in best practice recycling methods to achieve the NSW Government's targets for 70% resource recovery from municipal, commercial and industrial waste sources. The development would increase recycling capacity in the Hunter region, achieving a resource recovery rate of 84%.

Statutory Context

The development is State significant development pursuant to section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as it is development of a liquid waste depot that treats, stores or disposes of industrial liquid waste and handles more than 1,000 tpa of liquid industrial waste. This meets the criteria in Clause 23(6)(b) of *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP). Consequently, the Minister for Planning and Public Spaces and Minister for Transport and Roads is the consent authority for the development under section 4.5(a) of the EP&A Act.

Engagement

The Department exhibited the EIS for the development from 16 December 2020 to 3 February 2021 and received advice from 7 government agencies including Port Stephens Council (Council). No

submissions were received from special interest groups or the public and there were no objections to the development.

Government agencies requested further information on waste management, contamination, stormwater and wastewater management, air quality, odour and traffic.

The Applicant submitted a Response to Submissions (RTS) report in June 2021 providing further assessment information. In August 2021, the Applicant provided supplementary information including an updated waste management plan and addendum traffic impact assessment to address residual issues raised by the Environment Protection Authority (EPA) and Transport for NSW. Following a review of the RTS and supplementary information, government agencies including Council, were satisfied the issues had been addressed and recommended conditions for the development. The EPA confirmed the development is a scheduled activity under the *Protection of the Environment Operations Act 1997* and requires an Environment Protection Licence for operation.

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 waste management and contamination. Other matters were also assessed including air quality, stormwater and wastewater management, traffic, fire safety and hazards.

Waste Management

The development would accept multiple waste streams from various sources and includes eight different processing plants. Careful management of the waste handling and processing is required to minimise environmental impacts. The development would use existing industrial buildings to conduct all waste receipt, processing and storage inside, limiting air and noise emissions. The buildings would be fully bunded to capture any spills, and external storage tanks would be bunded and fitted with automatic shut off valves to prevent spills. The Applicant provided detailed procedures for identifying and managing non-conforming wastes, recording and reporting on waste captured for energy recovery and management of hazardous wastes. The Applicant also demonstrated how it would meet the requirements of the *NSW Energy from Waste Policy Statement 2020*. The Department's assessment concluded the development incorporates adequate measures for managing all waste streams to ensure minimal environmental impacts. The Department has recommended conditions, prepared in consultation with the EPA, for waste receipt, handling, storage and monitoring.

Contamination

The site contains some areas of contaminated soils and groundwater from previous industrial activity. Following requests from the Department and the EPA, the Applicant conducted further sampling to quantify the contamination, prepared a Remedial Action Plan (RAP) and appointed an EPA accredited Site Auditor to review the RAP. The RAP proposes to remove a hotspot of elevated lead impacted soils and consolidate zinc impacted soils to the proposed, capped truck parking area. The capping layer would be constructed over the impacted soils to prevent infiltration through the residual contaminated soils into groundwater, and to prevent infiltration of hydrocarbons from fuel or oils spills from parked trucks. The Applicant would implement a long-term environmental management plan for the residual contamination, including on-going groundwater monitoring. The Site Auditor confirmed the site can be made suitable for continued commercial/industrial land use following implementation of the RAP. The Department and the EPA reviewed the RAP and the advice of the Site Auditor and concluded the RAP

is adequate for managing the identified contamination on the site. The appointment of a Site Auditor provides an independent review of the remediation work and verification that the land is suitable for its intended use once remediated. The Department has recommended conditions for the remediation works, consistent with the advice of the Site Auditor and the EPA.

Other Issues

The Department's assessment of other issues concluded the development:

- has been designed to minimise air and noise emissions by conducting waste handling and processing within enclosed buildings
- includes a stormwater management system capable of treating pollutants to ensure minimal impacts on receiving waters, including groundwater
- would be safely accommodated on the surrounding road network, with adequate queuing capacity for trucks and parking for staff on site
- includes measures to minimise risks from flooding and fire and meets the latest fire safety standards.

Conclusion

The Department's assessment concluded that the impacts of the development can be mitigated and managed to ensure an acceptable level of environmental performance, subject to the recommended conditions of consent.

The development is consistent with strategy waste policy to improve recycling capacity and minimise waste sent to landfill. The development optimises the use of existing industrial land for waste recycling, would invest \$8.9 million in the Port Stephens LGA and create 76 operational jobs.

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 The Department’s Assessment

This report details the Department of Planning, Industry and Environment’s (the Department) assessment of the State significant development application (SSD-10447) for the Remondis Resource Recovery Facility (RRF) at Tomago. The proposed development (the development) involves receipt and recycling of up to 98,201 tonnes per annum (tpa) of solid and liquid waste.

The Department’s assessment considers all documentation submitted by Remondis Australia Pty Ltd (the Applicant), including the Environmental Impact Statement (EIS), Response to Submissions (RTS) and supplementary information and advice received from government agencies. The Department’s assessment also considers the legislation, waste policy and planning instruments relevant to the site and the development.

This report evaluates the key issues associated with the development and provides recommendations for managing any impacts during construction and operation.

1.2 Development Background

The Applicant is seeking development consent to construct and operate a RRF at 21D and 21F School Drive, Tomago in the Port Stephens local government area (LGA). The site is located approximately 12 kilometres (km) north-west of the Newcastle central business district, see **Figure 1**. It is within an industrial area of Tomago and is adjacent to the Tomago Aluminium Smelter (TAS).

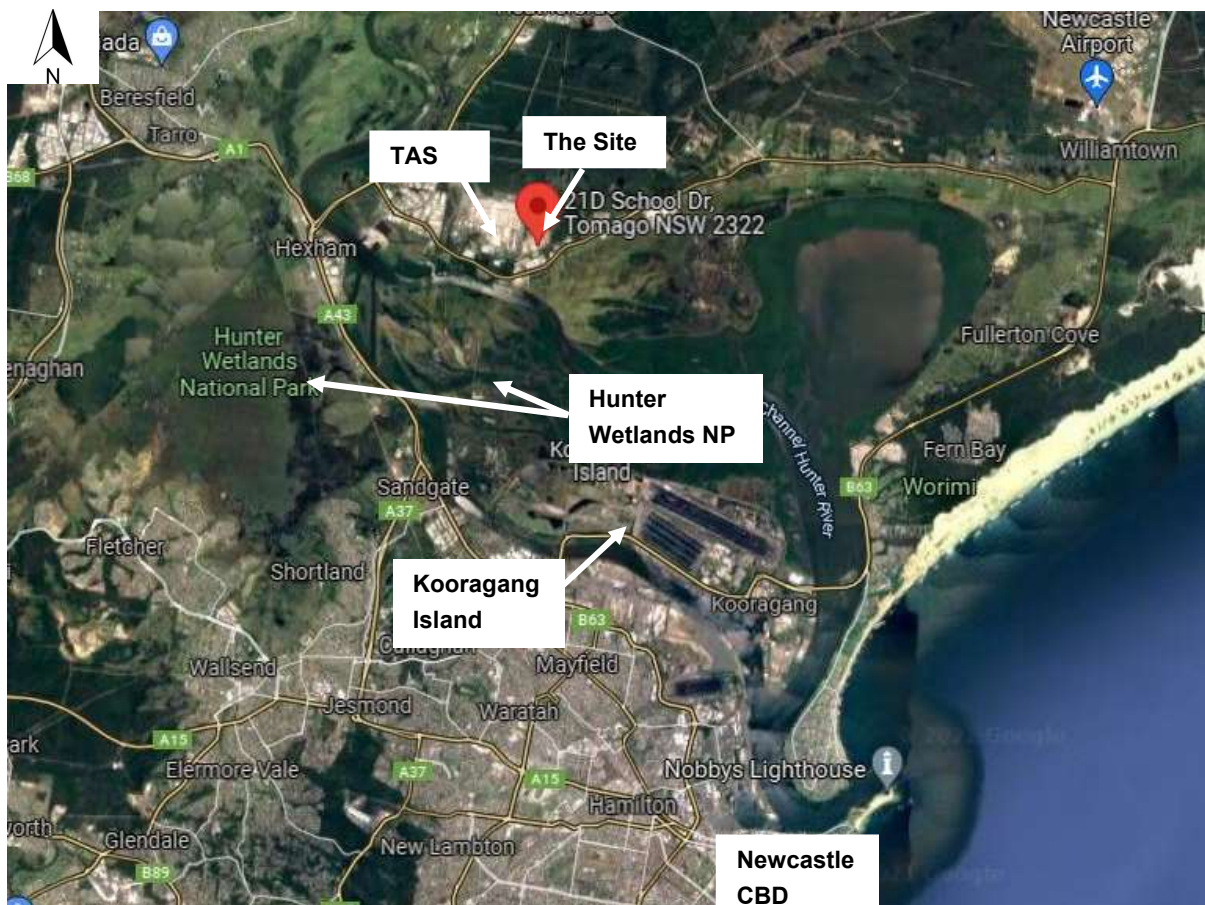


Figure 1 | Regional Context

The site contains two large industrial buildings and a workshop that are currently unused. These buildings were constructed for an aluminium and rod conductor manufacturing plant that was approved in 2012 by the then Minister for Planning (MP 10_0039). The manufacturing plant operated until mid-2017 when the operating company closed the plant following a downturn in the market. The site was later purchased by the Tomago Aluminium Corporation (TAC).

The Applicant proposes to use the existing industrial buildings and workshop for the RRF. The RRF would receive solid and liquid waste from domestic, commercial, industrial and construction sources and would re-process the waste for secondary uses. On receiving development consent for the RRF, TAC would transfer land ownership to the Applicant and surrender the project approval (MP 10_0039) for the aluminium and rod conductor manufacturing plant.

Figure 2 and **Figure 3** shows the existing buildings on the site. The eastern portion of the site is vacant and has previously been used for sand mining and metal manufacturing.

1.3 Site Description

The development is located on 4.08 hectares (ha) of industrial zoned land in Tomago. The site is legally described as Lot 8 and 11 in DP 270328 and Part Lot 301 in DP 634536.

Lot 11 in DP 270328 (21D School Drive) contains two industrial buildings, a workshop and sealed parking, hardstands and access roads. Lot 8 in DP 270329 (21F School Drive) is vacant and grassed with a few small trees and scrap waste materials, including concrete, bricks and tyres. Part Lot 301 in DP 634536 includes the paved vehicular access around the northern side of building 2. The site also contains two above ground water storage tanks.

The main vehicular access is from School Drive on the southern boundary, which connects to McIntyre Road, Tomago Road and the Pacific Highway around 4 km to the west.



Figure 2 | The site



Figure 3 | Existing Buildings on the Site

1.4 Surrounding Land Uses

The site is located within an established industrial area (the Tomago Industrial Area), with the Tomago Aluminium Smelter (TAS) located to the west, see **Figure 4**. Industrial premises are located immediately to the south and land to the east is vacant but has been used previously for industrial activities. Bushland is located to the north and varies in condition due to previous sand mining activities and impacts from the TAS (e.g. fluoride emissions).

The site is in the buffer zone of the TAS, which was established under conditions of consent for the smelter. The buffer extends generally in a circle of 4 km surrounding the smelter and is designed to function as an environmental management zone which restricts certain future land uses, such as residential, that are incompatible with the operation of the smelter and its air quality impacts (fluoride and sulfur dioxide emissions).

The nearest residences are rural-residential properties, 760 m to the east on Tomago Road. The nearest residential suburbs are Tomago, 2.7 km to the east and Hexham and Sandgate, 3 km to the south-west.

Key natural features in the vicinity of the site include the:

- Tomago Sandbeds Catchment Area, a drinking water supply for the Lower Hunter, approximately 600 m north of the site (upstream)
- Hunter River, approximately 1 km to the south of the site
- Hunter Wetlands National Park, including the Ramsar listed Hunter Estuary Wetlands and several other wetlands of State importance, 1 km downstream and to the south-east and east of the site.

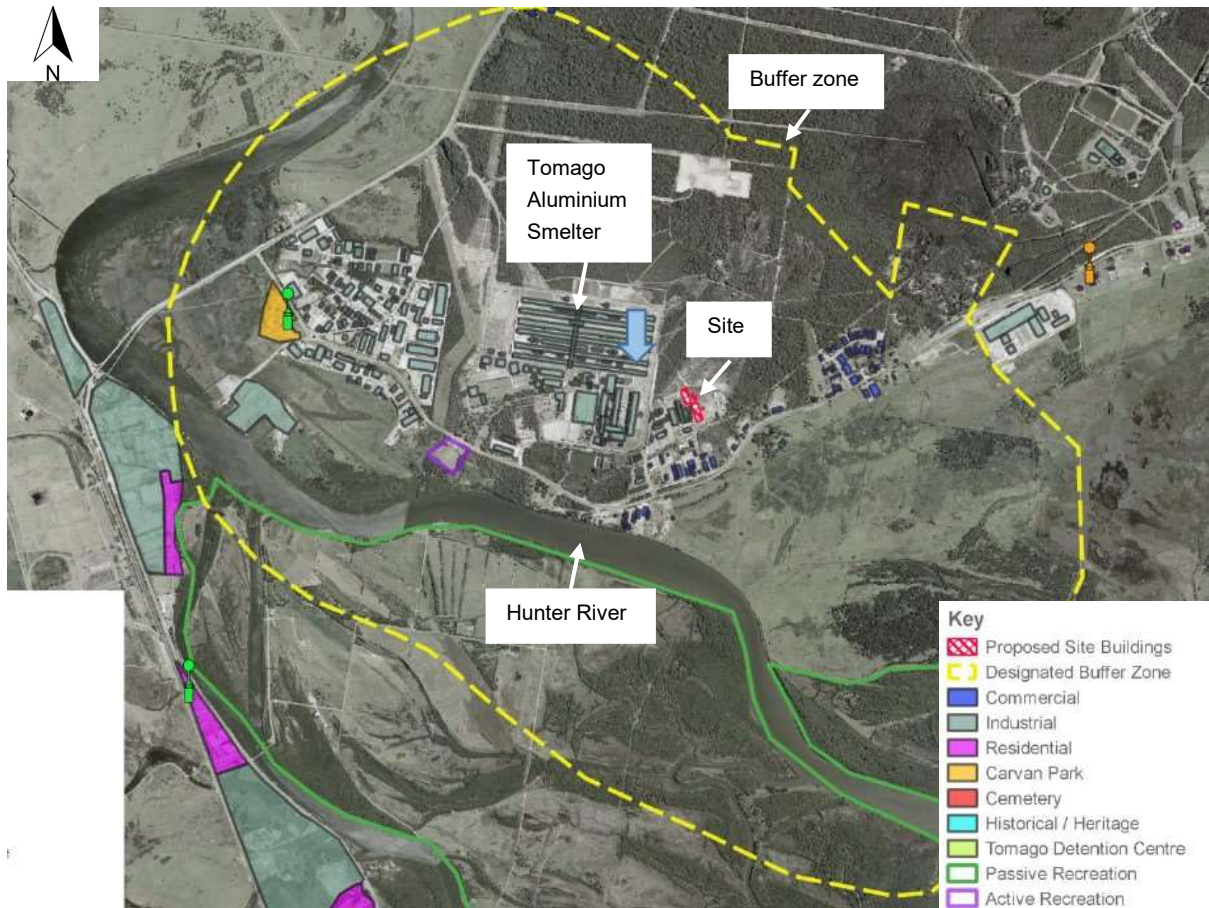


Figure 4 | Surrounding Land Uses

1.5 Other Development Approvals

In 2012, the then Minister for Planning approved an aluminium and rod conductor manufacturing plant (MP 10_0039) on the site. The plant ceased operations in 2017 and TAC took ownership of the site. TAC would surrender the project approval MP 10_0039 when the Applicant obtains consent for the RRF.

2 Development

2.1 Description of the Development

The major components of the development are summarised in **Table 1**, shown on **Figure 5** to **Figure 8** and described in full in the Environmental Impact Statement (EIS) and Response to Submissions (RTS) in **Appendix B**.

Minor changes were made to the development to address issues raised during the public exhibition period. The Applicant also committed to implementing additional mitigation measures. The minor changes included:

- bunding and screens to ensure full water capture in the truck wash bay, installation of a treated water holding tank and off-site disposal of the captured water
- removal of lead and zinc impacted soils and installation of a capping layer over the truck parking area to prevent infiltration through residual contaminated soils
- installation of a level spreader on the northern site boundary to disperse stormwater flows from the truck parking area to the adjacent lot
- full bunding of processing areas in building 2.

Table 1 | Main Components of the Development

Aspect	Description
Development Summary	Construct and operate an RRF to process up to 98,201 tpa of solid and liquid wastes for reuse and recycling
Site area	4.08 hectares
Remediation	<ul style="list-style-type: none"> • remove and dispose of stockpiled waste materials and lead impacted soils in one hotspot area • consolidate zinc impacted soils to the capped truck parking area • install a geotextile membrane as a capping and marker layer over the proposed truck parking area • implement a long-term environmental management plan including monthly groundwater monitoring
Construction	<ul style="list-style-type: none"> • construct a weighbridge, truck parking depot and 7 storage tanks for fuels, waste oils, liquid wastes and drill muds • install materials recycling equipment inside existing buildings 1 and 2 • install a bunded truck wash inside the workshop building
Operation	<p>Receive, sort, process and store recyclable materials for transport off-site for reuse or further recycling. Facilities include:</p> <ul style="list-style-type: none"> • materials recovery – up to 31,000 tpa of mixed general solid waste from commercial, construction and industrial sources • cardboard baling– up to 30,000 tpa of source separated cardboard baled into one tonne blocks for transport off-site for recycling

Aspect	Description
	<ul style="list-style-type: none"> • drill mud recycling – up to 5,000 tpa of drill muds from civil, construction and mining industries, solids and liquids separated and sent off-site for further processing • packaged food recycling – up to 2,000 tpa, food contents and packaging separated for disposal and recycling • garden organics – up to 5,000 tpa of woody garden organics, shredded for off-site composting • hazardous waste recycling – up to 20,201 tpa, sorting of spent solids and liquids containing oils and chemicals • copper processing area – up to 1,000 tpa, recovery of copper wire and plastics from electrical cabling • metals recycling – up to 4,000 tpa, sorted, cut and removed for off-site processing and recycling
Ancillary infrastructure	<ul style="list-style-type: none"> • overnight truck parking area for 24 rigid trucks and 9 semi-trailers • maintenance of the truck fleet inside the existing workshop building, including truck wash
Traffic	234 vehicles per day comprising 60 cars and 174 heavy vehicles
Hours of operation	24 hours, 7 days
Construction timeframe	3 months 7 am – 6 pm Monday to Friday, 8 am – 1 pm Saturday
Capital investment value	\$8,975,468
Employment	15 full-time equivalent construction jobs and 76 operational jobs

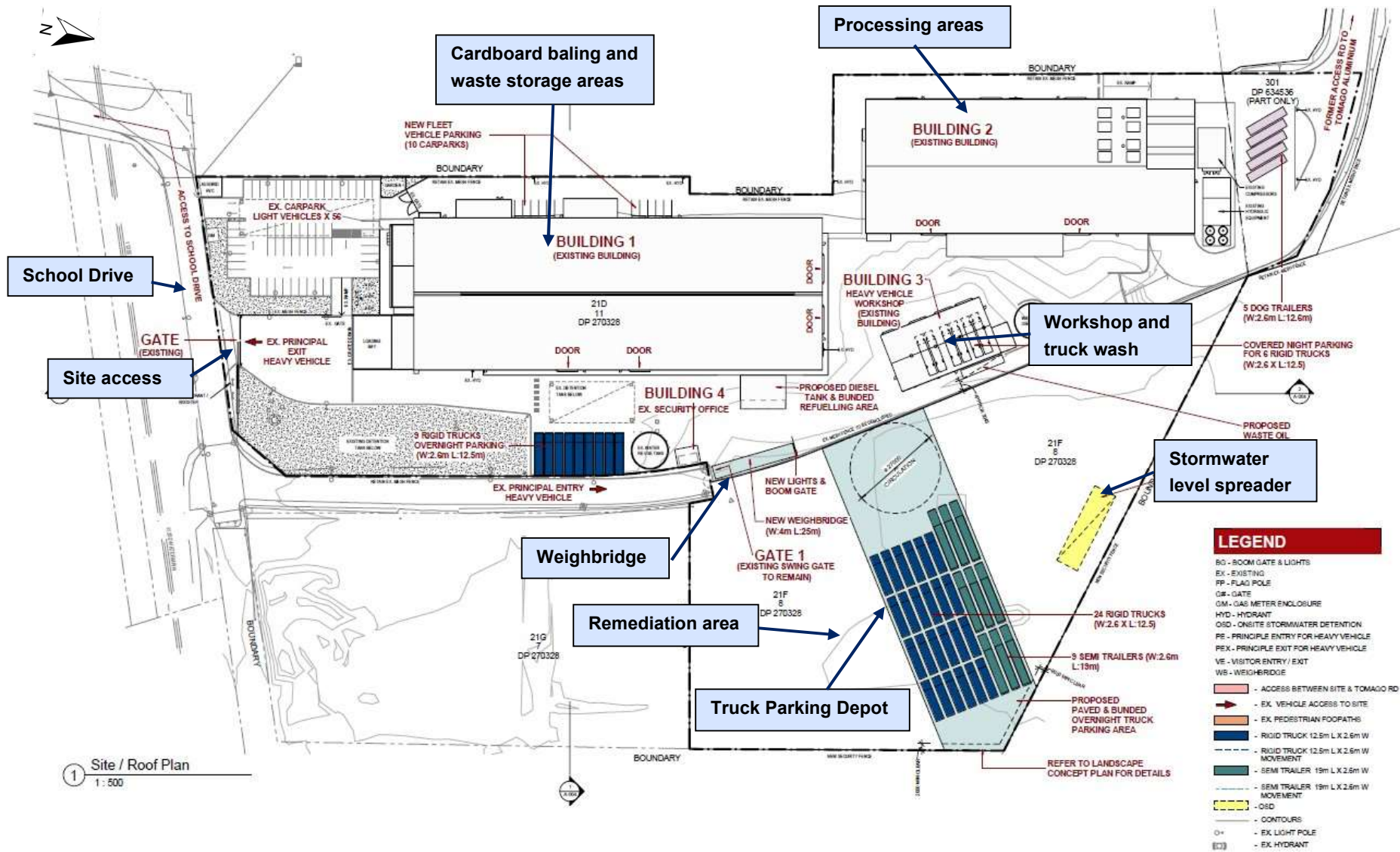


Figure 5 | Development Layout

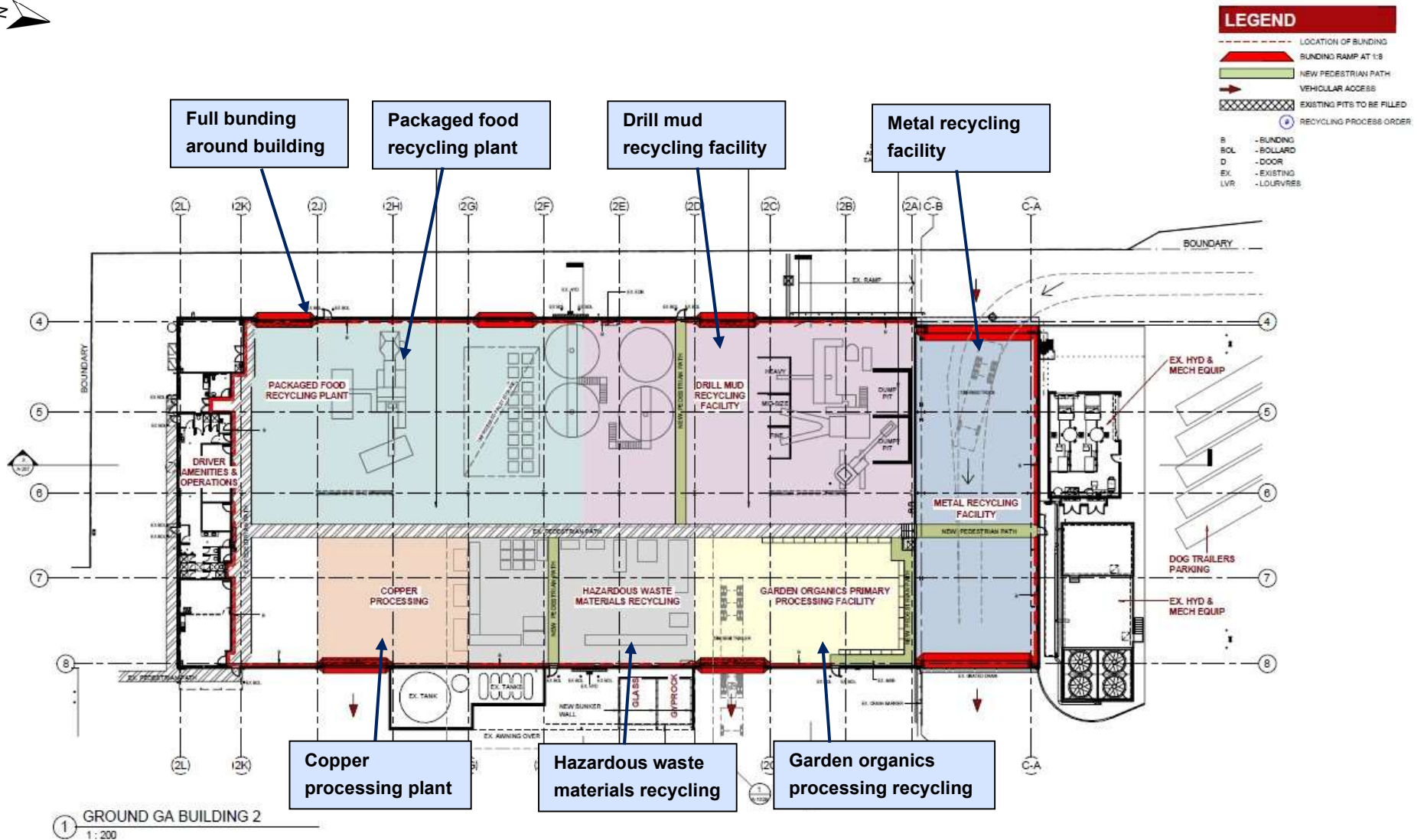


Figure 6 | Processing areas inside Building 2

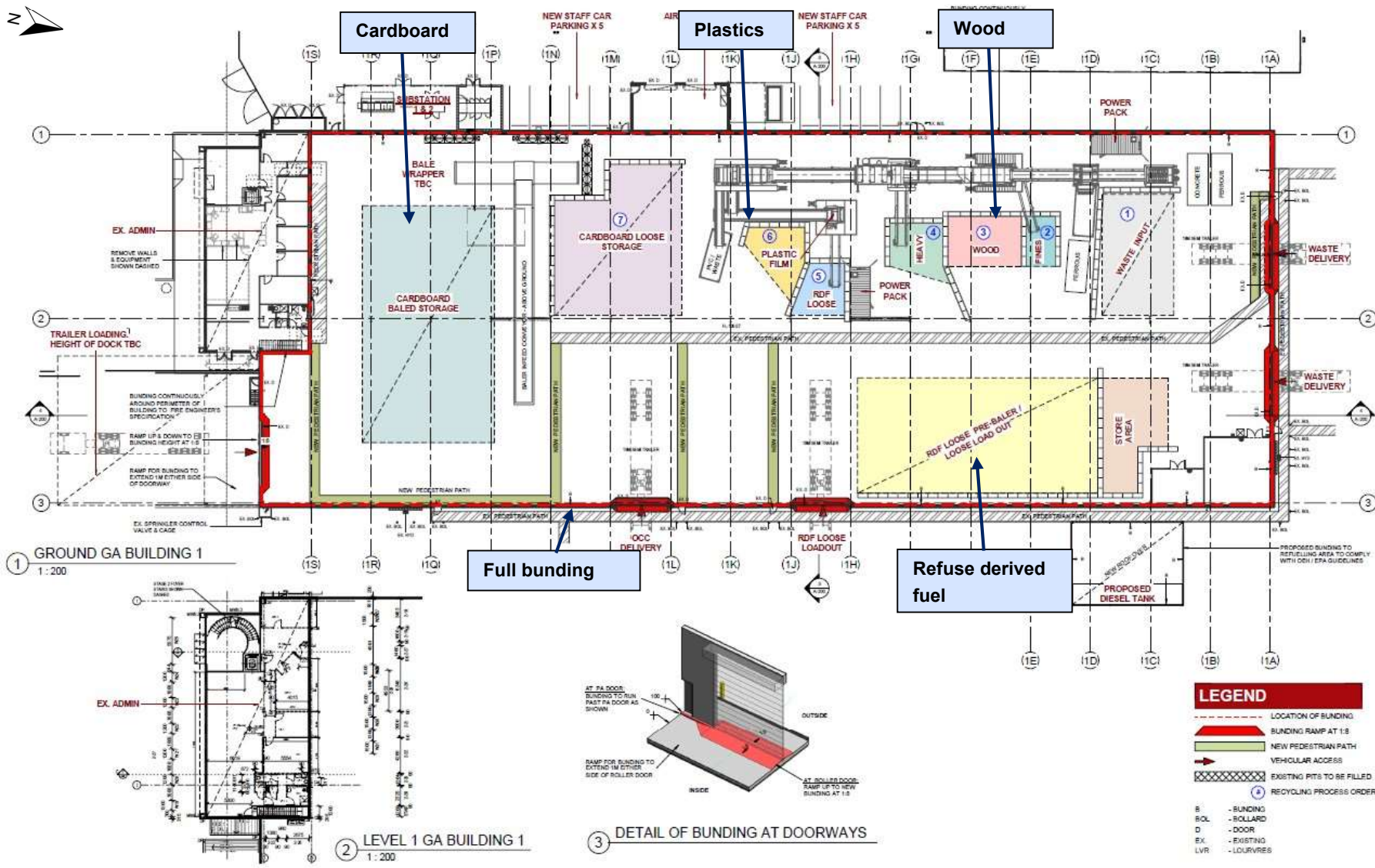


Figure 7 | Cardboard baling and waste storage areas inside Building 1

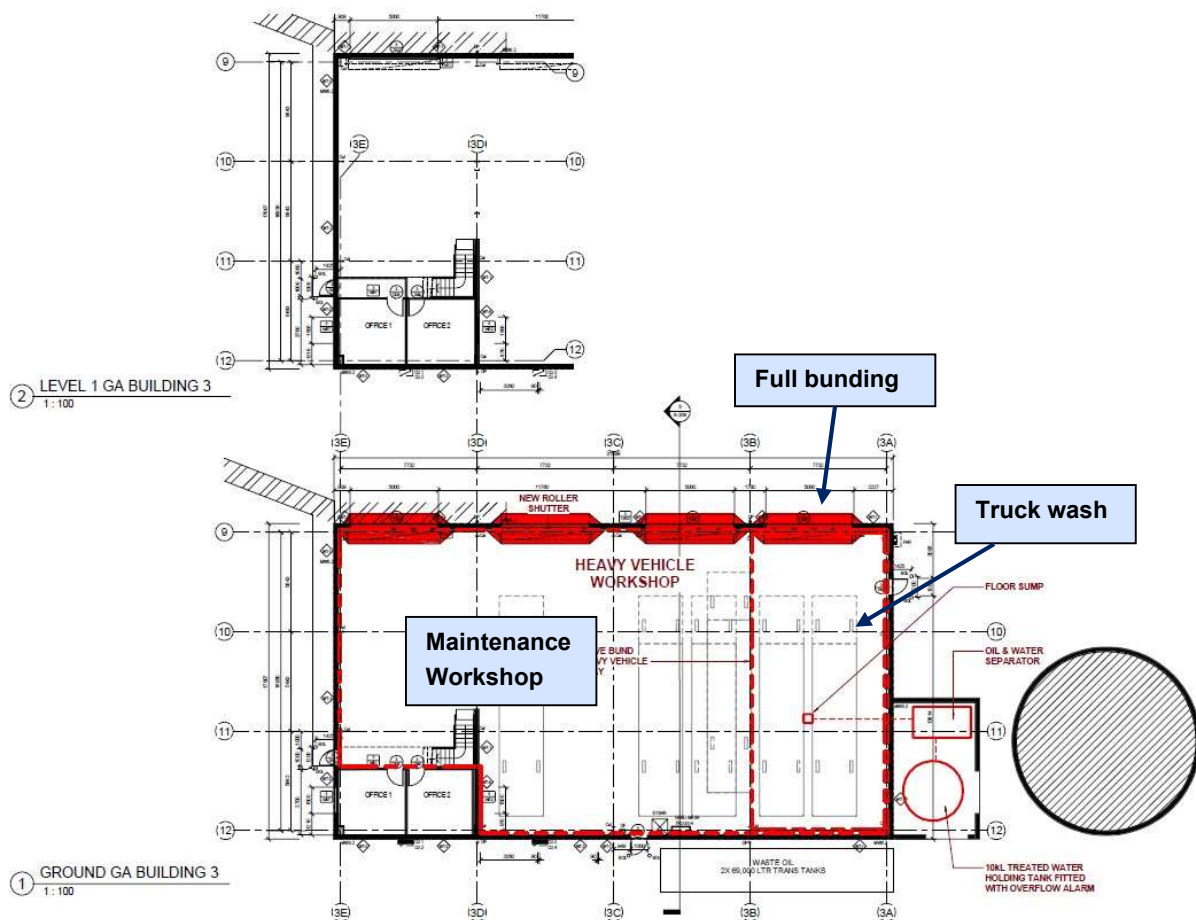


Figure 8 | Heavy vehicle workshop, truck wash bay and offices

2.2 Process Description

The RRF would include eight different waste processing areas, including:

1. Materials recovery facility – materials collected from commercial, industrial and construction sources including paper, cardboard, plastics, glass, timber, concrete and bricks. Materials are sorted into products for reuse, including recovered fines, shredded wood, concrete, brick and tile, loose refuse-derived fuel (plastics, timber, paper, cardboard, rubber and textiles), plastics and PVC. The Applicant proposes to process up to 15,500 tpa of residual waste for energy recovery in accordance with the *NSW Energy from Waste Policy Statement*. This material would be sent to a facility licensed to accept and use refuse-derived fuels.
2. Cardboard baling facility – for source separated cardboard collected from businesses. Cardboard is loaded into a hydraulic bale press, secured into one tonne blocks for storage and transport off-site for recycling.
3. Drill mud recycling facility – sourced from civil, construction and mining industries. Drill muds are pumped into a bunded holding tank, then passed through a centrifuge to separate the solids and liquids. Solids are stored and tested to confirm compliance with the *Treated Drilling Mud Order and Exemption 2014*. Material meeting the criteria of the exemption are sent off-site for beneficial reuse. Liquids are pumped to a bunded holding tank, tested and disposed off-site to liquid waste treatment plants.

4. Packaged food recycling plant – a de-packaging unit chops and squeezes food and drink content, separating them from the packaging. Liquidised food is pumped to a holding tank for twice weekly transport off-site for recycling (either composting or soil injection). Packaging is transferred to the materials recovery facility for processing. An odour emission control unit would be installed on the packaged food recycling plant.
5. Garden organics processing plant – shredding of woody garden organics, storage and transport off-site for composting.
6. Hazardous waste recycling facility – various solid and liquid waste materials containing oils and chemicals would be received, including oil filters, containers with residues, contaminated soils, batteries, fluoro tubes, Gyproc, used fire extinguishers and electronic waste. These materials would be hand sorted and stored in banded closed containers prior to transport off-site for further recycling or disposal. Trackable liquids wastes would also be received including waste mineral oils, oily water, residual solvents, thinners and paints. These would be decanted into holding tanks prior to transport off-site in specialised tankers for recycling or treatment.
7. Copper processing area – electrical cabling from mine sites, building and communications centre decommissioning would be received. The copper wire and plastic insulation would be separated, copper wire would be cut and both materials stored in separate bins, prior to transport off-site for recycling.
8. Metals recycling facility – ferrous and non-ferrous metals would be sorted, cut and some materials baled for storage before transport off-site for recycling.

Each processing area operates in a similar way, with trucks transporting materials into the site via the weighbridge. Materials are spread onto the processing floor for inspection and removal of contaminants by telehandlers. Accepted material then passes through the respective recycling plant and non-conforming material is separated, stored and transported off-site for disposal. Once material has passed through the respective recycling plant it is stored in concrete bunkers or banded tanks before transport off-site via trucks for subsequent reuse or further recycling. All trucks leaving the site also use the weighbridge to record waste product loads. The Applicant expects up to 84.6% of incoming waste would be recycled, with the remainder disposed of to landfill.

2.3 Applicant's Need and Justification for the Development

The proposed RRF would increase recycling capacity in the Hunter region, contributing to the achievement of the NSW Government's recycling targets set out in the *Waste Avoidance and Resource Recovery Strategy 2014-21*. The Applicant states the development would contribute to addressing the current gaps in recycling infrastructure in the Hunter and Central Coast region, as identified in the EPA's *Waste and Sustainable Materials Strategy 2041*. This strategy identified the need for additional capacity for materials recovery facilities for non-putrescible waste and organics processing facilities in the region.

The Applicant considered expanding its existing facilities in the region but noted these have insufficient space to accommodate the proposed recycling volumes. The proposed site offers the advantage of having new industrial buildings already in place that require little modification to establish a recycling facility within fully enclosed buildings. The site is in an established industrial precinct with good road connections.

3 Strategic context

The Department has considered strategic plans relevant to the waste industry and the location of the site.

3.1 NSW Waste Avoidance and Resource Recovery Strategy 2014-21

The Waste Avoidance and Resource Recovery Strategy (WARR) sets goals for sustainably managing waste and resources by avoiding waste generation, increasing recycling targets and diverting more waste from landfill. The WARR sets targets for increased recycling rates by 2021-22, as follows:

- 70% for municipal solid waste (MSW)
- 70% for commercial and industrial (C&I) waste
- 80% for construction and demolition (C&D) waste

The WARR also aims to increase waste diverted from landfill to 75%.

The development would contribute to achieving these targets by recycling up to 98,201 tpa of MSW, C&I and construction waste with an expected resource recovery rate of 84.6%. The development is consistent with the key objectives of the WARR Strategy to increase recycling rates and divert more waste from landfill.

3.2 Waste and Sustainable Materials Strategy 2041

The Waste and Sustainable Materials Strategy 2041 (WSMS) sets targets for transitioning NSW to a circular economy over the next 20 years. The key aims of the strategy are to minimise waste, reuse resources efficiently, reduce emissions and increase innovation in the waste sector. The WSMS aims to reduce total waste generated, increase recovery rates and use of recycled content, phase out problematic plastics and reduce the amount of organic waste sent to landfill. The development would assist in achieving these aims by increasing recycling capacity across a range of waste types including plastics. The development would reduce the amount of waste sent to landfill and would recover around 84% of waste for beneficial reuse.

3.3 National Waste Policy: Less Waste, More Resources

The National Waste Policy (NWP) outlines the Federal Government's objectives for improving the management of waste resources and promoting sustainable and innovative solutions to challenges in Australia's waste management industry. The development would assist in achieving a key outcome of the NWP, to ensure waste streams are routinely managed as a resource to achieve better environmental, social and economic outcomes.

The development would assist in achieving Strategy 7: Increasing industry capacity, by constructing and operating waste recycling infrastructure to extract materials for beneficial reuse.

3.4 NSW Circular Economy Policy Statement – Too Good to Waste

The NSW Environment Protection Authority (EPA) prepared the Circular Economy Policy Statement in 2019, outlining principles for transitioning NSW towards a circular economy. The development is consistent with the principles of the policy, including maintaining the value of products and materials. The development would utilise sorting and recycling methods to provide reuse opportunities for waste materials.

3.5 NSW Energy from Waste Policy Statement 2021

The EPA's Energy from Waste Policy Statement, 2021 (EfW Policy) sets a framework for the operation of energy from waste facilities and includes best practice air emission standards for the protection of

human health and the environment. The EfW Policy also includes requirements for calculating and reporting on the percentage of waste streams captured for energy recovery. The development proposes to collect up to 15,500 tpa of waste material for energy recovery, with the materials meeting the resource recovery criteria in the EfW Policy.

3.6 Hunter Regional Plan 2036

The Hunter Regional Plan 2036 outlines a vision to grow and diversify the Hunter economy over 20 years so that it remains the largest and most productive regional economy in Australia. The proposed development is consistent with the visions, goals and directions outlined in the Hunter Regional Plan 2036. The development is appropriately located within an established industrial area, separated from residential and other sensitive areas (consistent with Direction 13) and delivers infrastructure that supports growth and communities (consistent with Direction 26).

4 Statutory Context

4.1 State Significance

The proposal is State significant development pursuant to section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) because it is development of a liquid waste depot that treats, stores or disposes of industrial liquid waste and handles more than 1,000 tpa of liquid industrial waste. This meets the criteria in Clause 23(6)(b) of Schedule 1 in *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP).

4.2 Permissibility

The site is zoned IN1 General Industrial under the *Port Stephens Local Environmental Plan 2013* (PSLEP). The development is defined as a waste or resource management facility which is not listed as a permissible use in the IN1 zone and is therefore prohibited under the PSLEP.

Clause 121 of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) permits the development for the purpose of waste or resource management facilities with consent, on land in a prescribed zone, which includes the IN1 General Industrial zone. The development is therefore permissible with consent under the ISEPP.

4.3 Consent Authority

The Minister is the consent authority for the development under section 4.5 of the EP&A Act. On 26 April 2021, the Minister delegated the functions to determine SSD applications to the Director, Industry Assessments where:

- the relevant local council has not made an objection, and
- there are less than 15 unique public submissions in the nature of objections, and
- a political disclosure statement has not been made by the Applicant.

Of the 7 submissions received, none objected to the development. Council did not object to the development. No reportable political donations were made by the Applicant in the last two years and no reportable political donations were made by any persons who lodged a submission.

Accordingly, the application can be determined by the Director, Industry Assessments under delegation.

4.4 Other approvals

Under section 4.42 of the EP&A Act, other approvals may be required and must be approved in a manner that is consistent with any Part 4 consent for the SSD under the EP&A Act.

In its submission, the EPA confirmed the development is a scheduled activity under the *Protection of the Environment Operations Act 1997* (POEO Act) and requires an Environment Protection Licence (EPL) for resource recovery, waste processing and waste storage. The EPA recommended conditions for remediation, water, air quality and odour management and waste management. The Department has considered the EPA's advice in its assessment and included its recommended conditions in the consent.

4.5 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. The Department's consideration of these matters is set out in **Section 6** and **Appendix B**.

Under section 4.15 of the EP&A Act, the consent authority, when determining a development application, must take into consideration the provisions of any environmental planning instrument (EPI) and draft EPI (that has been subject to public consultation and notified under the EP&A Act) that apply to the proposed development.

The Department has considered the development against the relevant provisions of several key EPIs including:

- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) and the draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP)
- State Environmental Planning Policy No. 64 – Advertising Structures and Signage (SEPP 64)
- Port Stephens Local Environmental Plan 2013 (PSLEP).

Development Control Plans (DCPs) do not apply to SSD under Clause 11 of the SRD SEPP. However, the Department has considered the relevant provisions of the Port Stephens DCP 2014 in its assessment of the development in **Section 6** of this report.

Detailed consideration of the provisions of all EPIs that apply to the development is provided in **Appendix D**. The Department is satisfied the proposed development generally complies with the relevant provisions of these EPIs.

4.6 Public Exhibition and Notification

In accordance with section 2.22 and Schedule 1 to the EP&A Act, the development application and any accompanying information of an SSD application are required to be publicly exhibited for at least 28 days. The application was on public exhibition from 16 December 2020 until 3 February 2021 (50 days). Details of the exhibition process and notifications are provided in **Section 5.1**.

4.7 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. The Department has fully considered the objects of the EP&A Act, including the encouragement of Ecologically Sustainable Development (ESD), in its assessment of the application (see **Table 2**).

Table 2 | Considerations Against the Objects of the EP&A Act

Object	Consideration
1.3(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	The development would promote the social and economic welfare of the community by recycling resources for beneficial reuse and providing capital investment of \$8.9 million and 76 jobs in the local area.
1.3(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and	The development integrates all social, economic and environmental considerations and seeks to avoid potentially serious or irreversible environmental

Object	Consideration
social considerations in decision-making about environmental planning and assessment	damage. The Department is satisfied the development can be carried out in a manner consistent with the principles of ESD.
1.3(c) to promote the orderly and economic use and development of land	The development promotes orderly and economic use and development of industrial land and utilises existing industrial buildings.
1.3(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	The Department's assessment in Section 6 concludes the development would not impact on threatened species or ecological communities, with negligible vegetation clearing required for the development.
1.3(g) to promote good design and amenity of the built environment	The development is appropriately designed and consistent with the surrounding industrial environment. The development would utilise existing industrial buildings that have been constructed within the last 10 years and were used for only a short period for other industrial activities.
1.3(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	The development has been designed to meet fire safety and building code requirements, including <i>Fire Safety in Waste Facilities</i> (Fire & Rescue 2020)
1.3(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The Department assessed the development in consultation with Council and other government agencies, incorporating the recommendations into the conditions of consent.
1.3(j) to provide increased opportunity for community participation in environmental planning and assessment	The application was publicly exhibited for 50 days providing opportunity for public participation in the assessment process. The Department considered public submissions in its assessment.

4.8 Ecologically Sustainable Development

The EP&A Act adopts the definition of 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:

- (a) *the precautionary principle*
- (b) *inter-generational equity*
- (c) *conservation of biological diversity and ecological integrity*
- (d) *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 demonstrated by the Department's assessment in **Section 6** of this report, the development is not anticipated to have any adverse impacts on native flora or fauna, including threatened species, populations and ecological communities, and their habitats. The development requires removal of 0.1 ha of disturbed vegetation including potential habitat for the Mahony's Toadlet (listed as endangered under the *Biodiversity Conservation Act 2016*) and assumed to be present on site. These impacts would be offset in accordance with the NSW Biodiversity Offsets Policy for Major Projects. 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.

4.9 Biodiversity Development Assessment Report

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

The Applicant prepared a BDAR which confirmed the development would not have a significant impact on any threatened species or ecological communities. The BDAR noted that 0.1 ha of disturbed vegetation would be removed, and 1 species credit species would be required to offset impacts on Mahony's Toadlet (*Uperoleia mahonyi*), which was assumed to be present on the site.

4.10 Commonwealth matters

Under the EPBC Act, assessment and approval is required from the Commonwealth 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 Commonwealth Government was not required.

5 Engagement

5.1 Consultation

The Applicant, as required by the Planning Secretary's Environmental Assessment Requirements (SEARs), undertook consultation with relevant local and State authorities as well as the community and affected landowners. 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.

Consultation by the Applicant

The Applicant consulted with neighbouring landowners during preparation of the EIS. This included sending letters to all properties within 500 m of the site, including a project fact sheet and invitation to attend an online information session. The Applicant received feedback from one neighbouring business, which raised concern about the potential for increased traffic to impact on their concrete supply business.

Consultation by the Department

After accepting the DA and EIS for the application, the Department:

- made it publicly available from **16 December 2020** until **3 February 2021** (50 days) on the Department's website
- wrote to landowners and occupiers in the vicinity of the site to advise them of the public exhibition and the procedures for making a submission
- notified and invited comment from relevant State government authorities and Port Stephens Council.

5.2 Submissions and Advice

The Department received advice from 7 government agencies and no submissions from the public or special interest groups. There were no objections to the development. A summary of the government agency advice is provided below and a link to the advice is provided in **Appendix A**.

5.2.1 Key Issues - Public Authorities

Port Stephens Council (Council) did not object to the development. Council requested details on the adequacy of the existing stormwater management system to accommodate the development and clarifications on the sewer and trade waste management systems for the development.

Environment Protection Authority (EPA) did not object but requested further detailed information to assess:

- water pollution risks from contaminated areas during remediation and construction and details of the proposed cap over contaminated areas
- proposed stormwater and leachate management for the development and a water pollution impact assessment, providing detail of discharges and impacts on receiving waterways
- impacts on local and regional groundwaters
- groundwater quality controls, particularly for treating metals and hydrocarbons
- air quality impacts, including a revised air quality assessment considering industrial and commercial receptors, volatile organic compounds and benzene, assessment of air toxics beyond the site boundary and details of the proposed odour control system on the food de-packaging facility

- updated contamination assessment incorporating groundwater monitoring and a remedial action plan
- waste management operations, including details of waste receipt, processing, storage, bunding and procedures for managing non-conforming wastes.

Hunter Water Corporation (HWC) did not object to the development but requested further assessment of the potential impacts on the nearby Tomago Sandbeds aquifer, an important drinking water source for the Hunter region. HWC requested further detail on bunding design to contain spills of hazardous wastes, estimated volumes of process wastewater and expected contaminants, trade waste requirements and stormwater and groundwater quality monitoring.

Environment, Energy and Science Group (EESG) of the Department did not object and provided comments on biodiversity, flood risk, stormwater management and groundwater. EESG requested the BDAR be certified by an accredited assessor. In relation to flooding, EESG recommended all hazardous materials are stored above the probable maximum flood level and the Emergency Plan be updated to include measures to prevent the release of hazardous materials during a flood event. EESG also recommended the Applicant review the existing stormwater treatment devices on site to confirm they are suitable for treating pollutants from the development and consider the potential for groundwater contamination due to infiltration of untreated stormwater.

Roads and Maritime Services (RMS) and **Transport for NSW (TfNSW)** provided a single response, requesting more modelling information for the School Drive/McIntyre Road intersection and McIntyre Road/Tomago Road intersection. TfNSW also requested the EIS be updated to reflect the most recent concept designs for the nearby Pacific Highway upgrade (M1 to Raymond Terrace).

Rural Fire Service (RFS) did not object and provided recommendations for the development to be managed as an inner protection area in accordance with *Planning for Bushfire Protection 2019*.

The **Water Group** of the Department (**DIPE Water**) and **Natural Resources Access Regulator (NRAR)** did not object and stated the Applicant would need a water supply work approval if groundwater supply is required for construction or operation.

Fire and Rescue NSW (FRNSW) did not provide formal advice but noted it would review the Fire Safety Study for the development following determination.

5.3 Response to Submissions and Supplementary Information

In June 2021, the Applicant provided a Response to Submissions (RTS) to address the issues raised during the exhibition of the development (see **Appendix A**). The RTS included minor changes to the development design and additional mitigation measures to address the issues raised. These included:

- full water capture in the truck wash bay and off-site disposal of the captured water
- removal of lead and zinc impacted soils and installation of a capping layer
- installation of a level spreader on the northern site boundary to disperse stormwater flows
- full bunding of processing areas in building 2.

The RTS included updated assessments for air quality, traffic, groundwater, stormwater, waste management and bushfire. The BDAR was updated to include certification by an accredited assessor

and updated plans were provided for waste management, emergency management and pollution incident response.

The RTS was made publicly available on the Department's website and was provided to key government agencies to consider whether it adequately addressed the issues raised. A summary of the government agency responses is provided below:

- **Council** recommended conditions for the development relating to stormwater flows and on-site sewer management.
- **EPA** requested further information to address its questions about the waste types to be received and proposed processing and storage activities, including details on hazardous waste, liquid wastes, contaminated soils and wood waste. EPA also provided standard recommendations for managing the contaminated soils on the site.
- **HWC** noted the amendments in the RTS for managing wastewater and preventing infiltration of contaminants into groundwater, stating these would limit the potential for impacts on the Tomago drinking water aquifer.
- **EESG** confirmed its issues had been addressed and provided recommendations for the emergency management plan to include specific triggers for flood risk management.
- **TfNSW** requested further information on the impacts of the development on the Tomago Road and McIntyre Road intersection and potential queuing at the McIntyre Road and School Drive intersection.

On 13 August 2021, the Applicant provided an updated waste minimisation and management plan and an addendum to the traffic impact assessment to address the residual issues raised by the EPA and TfNSW.

Following a review of the supplementary information the EPA provided recommended conditions of approval and TfNSW confirmed it had no recommendations as there would be no significant impact on the nearby State road network.

The Department has considered the issues raised in submissions, the RTS and supplementary information, in its assessment of the development. The RTS, supplementary information and all government agency advice was made publicly available on the Department's website.

6 Assessment

The Department has considered the EIS, the issues raised in the submissions, the Applicant's RTS and supplementary information in its assessment of the development. The Department considers the key assessment issues are waste management and contamination.

Several other issues have also been considered. These issues are considered to be relatively minor and are assessed in **Table 3** under **Section 6.3**.

6.1 Waste Management

The development involves receipt of multiple different waste streams to be sorted and processed in eight different facilities within the site. Careful management of the waste handling and processing is required to minimise environmental impacts. Some of the waste streams must also be managed in accordance with resource recovery orders and exemptions, meaning there are specific waste acceptance criteria and recording requirements. The development is also proposing to recover wastes for refuse-derived fuel and must meet the criteria in the *NSW Energy from Waste Policy Statement 2021*.

Throughout its assessment of the development, the Department and the EPA requested further details on the management of different waste streams from the beginning to end of the resource recovery process on site. In August 2021, the Applicant provided an updated Waste Minimisation and Management Plan (WMMP) providing details on waste acceptance processes, unloading and handling procedures, processing activities, storage and waste outputs from each process.

The key controls for waste management at the site include:

- all waste loads entering and leaving the site are measured on the weighbridge
- incoming waste loads are tipped into concrete bunkers and inspected to confirm compliance with waste acceptance criteria. Non-conforming wastes are transferred to a separate area, loaded into bins and transported off-site for disposal
- full bunding provided in buildings 1 and 2, the maintenance workshop and for liquid waste storage tanks
- sampling of drill muds before pump-out to ensure compliance with the EPA's *Treated Drilling Mud Order 2014*
- automated controls on tank filling operations to prevent spills
- three monthly calculation of the percentage of wastes captured as refuse-derived fuel, to ensure compliance with the *NSW Energy from Waste Policy Statement 2020*.

Following a review of the updated WMMP, the EPA confirmed it was satisfied with the information provided and recommended a range of conditions for waste receipt, handling, storage and recording. The development would require an EPL for the scheduled activities of resource recovery and waste storage.

The Department notes the development would use existing industrial buildings to conduct all waste receipt, processing and storage activities inside, limiting air and noise emissions. The buildings would have perimeter bunding installed to capture any spills and divert these to a stormwater management

system for treatment. All storage tanks would be fully bunded and tank pump-outs would be controlled with automatic shut off valves and alarms, to prevent any spills. The Applicant has provided a detailed WMMP which includes procedures for identifying and managing non-conforming wastes, recording and reporting on waste captured for energy recovery and procedures for managing hazardous wastes.

The Department has recommended conditions to ensure only permitted wastes are received, all wastes are appropriately classified and stored, and any non-conforming wastes are promptly removed from the site. The Department also requires the Applicant to prepare an Energy from Waste Management Plan documenting the procedures to ensure compliance with the EfW Policy, and to implement a waste monitoring program for the development. The Department's assessment concludes the development incorporates adequate measures for managing all waste streams to ensure minimal environmental impacts.

6.2 Contamination

Construction of the development has the potential to encounter contaminated soils and groundwater and the waste processing and storage activities have the potential to further contaminate soils and groundwater if not appropriately managed.

The existing buildings and hardstand area on 21D School Drive were constructed in 2011 with historical information indicating these works involved some soil removal with the remaining underlying soils tested and classified as excavated natural material. This area of the site was considered to present minimal risk of contamination. Soils in the location of a hydrocarbon capture trench on this part of the site were sampled in 2021 and found to contain no hydrocarbons or other contaminants.

21F School Drive, the location of the proposed truck parking depot, has been used previously for sand mining and metal manufacturing and contains residual waste materials on the surface including concrete, bricks and tyres. Preliminary investigations presented in the EIS identified the presence of soil and groundwater contamination in this area of the site.

The Applicant provided a detailed site contamination and groundwater assessment as part of the RTS to address the EPA's submission, which noted there was insufficient information on the nature and extent of soil and groundwater contamination on the site. The RTS also included a Remedial Action Plan (RAP) and Interim Audit Advice (IAA) from an EPA accredited Site Auditor.

The detailed contamination assessment identified elevated concentrations of metals in soils on the site. Lead concentrations in one surface sample significantly exceeded the human health investigation level for commercial and industrial land use, see **Figure 9**. Zinc, copper, arsenic and cadmium concentrations were above ecological investigation levels at several locations on 21F School Drive. The highest zinc concentrations were found near the elevated lead concentrations, see **Figure 9**. No significant per- and poly-fluoroalkyl (PFAS) substances were found in soils on the site.

The groundwater assessment included two monitoring events from wells located on site and at the boundaries. The monitoring found metal contamination above trigger values, including zinc, copper, chromium and aluminium. Lead concentrations did not exceed trigger values. Some exceedance of PFOS (perfluorooctane sulfonate) were detected above trigger values. The groundwater assessment noted that removal of the hotspot area of lead and zinc impacted soils would help to attenuate zinc concentrations in the groundwater over time. Aluminium concentrations are related to the neighbouring TAC smelter and PFOS concentrations were considered to be related to a previous use on the site or for bushfire fighting, noting there was no PFAS detected in soils.

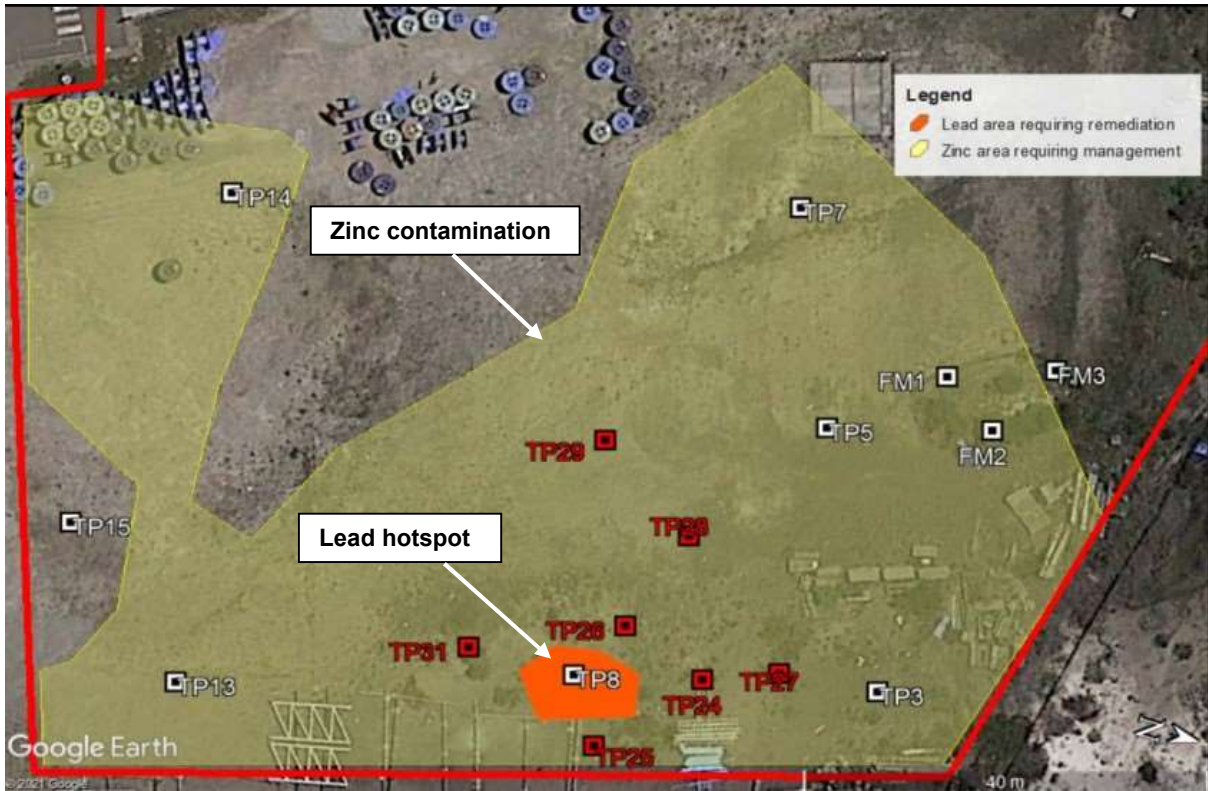


Figure 9 | Lead hotspot (orange) and elevated zinc in soils (red squares and yellow area)

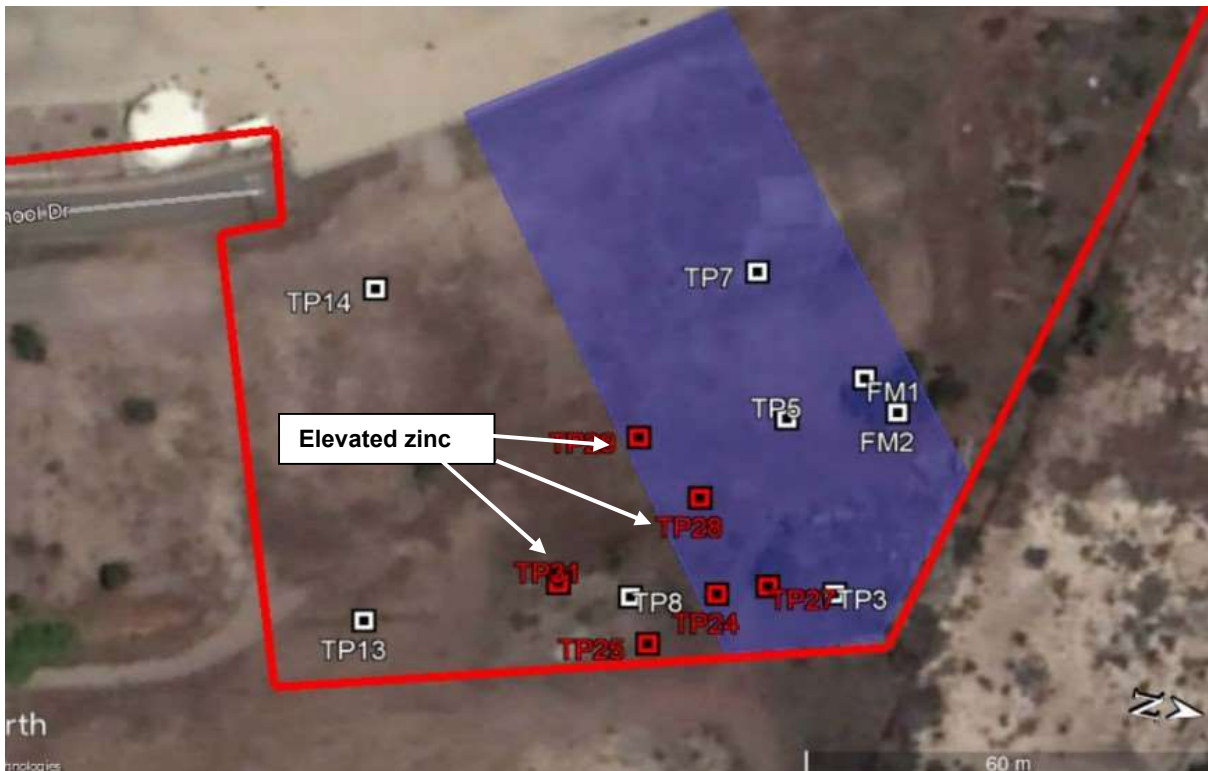


Figure 10 | Truck Parking Depot (blue) and elevated zinc in soils (red squares)

The Applicant proposes to remediate the lead contaminated soil hotspot on 21F School Drive, detailing the proposed work in a RAP, which includes:

- removing waste materials from the surface and disposing off-site
- removing the lead impacted soils from hotspot area (TP8) and disposing off-site
- consolidation of the most significant zinc impacted soils under the proposed truck parking area (or extension of the capping if volumes exceed the area covered by the truck parking depot)
- placing a geotextile membrane over the truck parking area to minimise infiltration through residual contaminated soils into groundwater, and prevent infiltration of hydrocarbons from fuel or oil spills from parked trucks
- installation of a stormwater drainage system to capture surface water flows on the truck parking depot for treatment before infiltration
- on-going groundwater monitoring and implementation of a long-term environmental management plan (LTEMP).

The RAP was reviewed by an EPA accredited Site Auditor and an IAA was issued. The IAA confirmed 21D School Drive is suitable for on-going commercial/industrial land use without remediation. 21D School Drive has limited areas not covered by buildings or pavement, and the site can be managed by a long-term environmental management plan covering any future intrusive works.

The IAA confirmed 21F School Drive can be made suitable for commercial/industrial land use following remediation. This conclusion is subject to successful implementation of the RAP, provision of detailed design of the capping layer and implementation of a LTEMP, including pre-remediation groundwater monitoring. The IAA recommended the Site Auditor review the pre-remediation groundwater monitoring results and detailed design of the capping layer, prior to construction. The IAA also recommended the Site Auditor review the Remediation and Validation Report and LTEMP.

Following a review of the RTS, the EPA recommended conditions for the remediation work, consistent with the recommendations of the IAA.

The Department considered the contamination studies and advice from the EPA and Site Auditor, noting the studies have been prepared in accordance with relevant contaminated land management guidelines. The lead impacted soils are isolated to a small area of the site and would be removed and disposed of, removing this contamination risk. The Department considers the site can be made suitable for on-going commercial/industrial land use, subject to successful implementation of the RAP. The appointment of a Site Auditor to oversee the remediation process provides an independent review of the remediation work and verification that the land is suitable for its intended use once remediated. The Department's assessment concludes the soil and groundwater contamination on site has been appropriately identified and the proposed remediation would make the land suitable for the proposed use. The proposed remediation is consistent with the aims of SEPP 55, to identify contamination issues in the determination of development applications. The Department recommends a range of conditions for the remediation works, consistent with the recommendations of the Site Auditor and EPA.

6.3 Other issues

The Department's assessment of other issues is provided in **Table 3**.

Table 3 | Assessment of Other Issues

Issue	Findings	Recommendations
Air Quality	<ul style="list-style-type: none"> Waste recycling activities and truck movements would generate dust and fine particle (PM₁₀ and PM_{2.5}) emissions. The food de-packaging unit and drill mud facility would generate odour and the waste oil unloading would release volatile organic compounds. Most activities would be undertaken inside buildings, except for the waste oil unloading into external tanks. The development is in an industrial area and is 760 m from the nearest residential receiver. The Applicant provided an Addendum to the AQIA as part of the RTS, predicting emissions from the development and addressing issues raised by the Department and EPA including an assessment of air toxics, impacts at adjacent industrial receivers and a review of fluoride and sulfur emissions, given the site's location within the TAS buffer zone. The Department and the EPA requested additional information to quantify the emissions of air toxics, impacts at adjacent industrial receivers and a review fluoride and sulfur emissions given the site's location within the TAC buffer zone. The Addendum AQIA modelled the development assuming paved haul roads, conducting waste unloading, sorting and shredding inside buildings and operation of an odour control unit on the food de-packaging plant. The development is predicted to comply with air quality criteria for all pollutants at sensitive receivers and at the site boundary, except for PM₁₀ (24-hour). Fluoride and sulfur emissions would be negligible. Cumulative PM₁₀ emissions would exceed the criteria at the site boundary up to 20 times a year. On 3 of these occasions, background levels already exceed the criteria. The Applicant noted the main contributor is truck movements and has committed to using water sprays or a water truck when there are visible dust plumes dispersing towards the industrial receivers. Other proposed mitigation measures include a passive activated carbon system on waste oil tankers to minimise benzene emissions and an odour control unit on the food de-packaging plant. The Department and the EPA were satisfied with the Addendum AQIA. The EPA recommended conditions for implementing the proposed mitigation measures and requested the Applicant provide the detailed design for the odour control unit and a verification air quality assessment prior to construction. The Department notes the development is in an industrial area, with most of the waste processing activities undertaken inside buildings. The development has the potential for increased particulate emissions at the site boundary due to truck movements. The Department has recommended the Applicant implement dust control measures throughout operation and requires these to be included in an air quality management plan. The Department's assessment concludes the development would have minimal air quality impacts and the recommended conditions would ensure any particulate and odour emissions are adequately controlled. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> provide detailed design of the odour control unit on the food de-packaging plant and a verification assessment, to the satisfaction of the Planning Secretary prior commencing construction. ensure waste materials are received, handled, processed and stored inside the buildings. install emission controls on waste oil tankers to minimise benzene emissions. regularly clean haul routes and use water sprays to reduce dust plumes. implement an operational air quality management plan.
Stormwater and Wastewater Management	<ul style="list-style-type: none"> The site is located 1 km to the north of the Hunter River and 600 m south of the Tomago Sandbeds drinking water catchment. The development has the potential to introduce contaminants into stormwater runoff that may impact on receiving waterways. The Applicant provided a Soil and Water Management Plan (SWMP) describing the stormwater management system for the development with reference to the Port Stephens DCP 2014. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> meet the requirements of the POEO Act, prohibiting the pollution of waters.

Issue	Findings	Recommendations
	<ul style="list-style-type: none"> • Further information was provided in the Applicant's RTS to address issues raised in submissions from Council, HWC, EPA and EESG. • The RTS confirmed all waste unloading, processing and storage would be undertaken inside the existing buildings, with minimal water requirements. Wastewater would be generated from drill mud processing and the truck wash and this water would be captured, stored in wastewater tanks and taken off-site for disposal. There would be no process wastewater discharges from the site. • Existing hardstands have a stormwater management system, including water quality treatment devices and an infiltration tank for treated water to disperse into the subsoils. These tanks also provide on-site detention for flood events up and including to the 1% annual exceedance probability (AEP). The existing system was shown to be adequate for managing stormwater flows and quality from the development, to meet the requirements of the DCP 2014. • A similar system is proposed for the truck parking depot, with an infiltration tank, treatment devices and a level spreader provided on the northern boundary to disperse overflows during larger storm events. • The site also has an existing on-site sewage management system which would require regular pump-out. Council recommended the Applicant obtain approval under Section 68 of the <i>Local Government Act 1993</i> for the change of use, to demonstrate the existing system is sufficiently sized for the development and meets the requirements of the Port Stephens Development Assessment Framework. • Following a review of the RTS, all agencies provided recommended conditions for stormwater management, including requirements for a surface water management plan, monthly groundwater monitoring and installation of bunding during construction of the truck parking depot. • The Department notes the existing stormwater management system would be augmented to accommodate the truck parking depot, using water quality treatment devices to meet pollutant reduction criteria in the DCP 2014. The SWMP demonstrates the post-developed site would not increase flows compared to the pre-developed site, for all storm events up to and including the 1% AEP. • The development would not generate substantial volumes of wastewater and all wastewater would be taken off-site for treatment and disposal. • The Department has recommended conditions for the stormwater management system, on-site sewage system and on-going surface and groundwater monitoring. • The Department's assessment concludes the development would have minimal potential to impact on receiving waters. 	<ul style="list-style-type: none"> • design, construct and operate a stormwater management system that meets Australian Standards, Port Stephens DCP 2014, ensures the capture of all wastewater and limits flows to pre-development conditions. • obtain approval from Council for the on-site sewage management system under the <i>Local Government Act 1993</i>, prior to operation. • prepare and implement a water management plan including surface and groundwater monitoring.
Flooding	<ul style="list-style-type: none"> • The site is in a minimal risk flood hazard category and is above the 1% AEP, meaning there are no specific building requirements. The site would become inundated during the probable maximum flood (PMF) event, which may result in dispersal of waste materials. • EESG requested further details about the management and storage of hazardous materials during a PMF event, recommending updates to the draft Emergency Plan. • The Applicant's RTS provided additional procedures for PMF events, including cessation of waste receipt, taking waste off-site for disposal and moving hazardous materials to the second row of pallet racking, above the PMF level. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> • update the Emergency Plan to include triggers for implementing flood risk management measures, actions to maintain personal safety, evacuation routes, warning times and SES

Issue	Findings	Recommendations
	<ul style="list-style-type: none"> EESG reviewed the RTS and recommended additional measures for flood emergency response including, triggers to implement mitigation measures, actions to maintain personal safety, evacuation routes and State Emergency Service (SES) contact details. The Department notes the development is located above the 1% AEP flood planning level and would have minimal impacts on flood risk. Given the development would store and process hazardous materials, specific procedures are required to ensure these materials are not dispersed during the PMF event. The Department recommends the Applicant updates the Emergency Plan to include the recommendations of EESG. The Department's assessment concludes the development would not increase flood risks on or off-site. 	<p>contact details and procedures, prior to operation.</p>
Traffic	<ul style="list-style-type: none"> The main access to the site includes School Drive and McIntyre Road (local roads) and Tomago Road (State road) that connects to the Pacific Highway 4 km to the west. The development would generate 234 vehicles per day (468 movements), including 174 trucks and 60 light vehicles. Peak movements would occur between 4 am – 6 am and 3 pm – 6 pm. The existing site provides 66 car parking spaces, which would be adequate for the estimated peak of 63 staff that would be on site at any one time. The development also includes a truck parking area for 24 rigid trucks and 9 semi-trailers to park overnight. The Applicant provided a traffic impact assessment (TIA) which was updated in the RTS to address comments by TfNSW relating to intersection modelling. Supplementary traffic information was also provided in August 2021 to address additional comments by TfNSW. The TIA concluded traffic from the development would be safely accommodated on the road network, with acceptable intersection performance. There would be minor increased delays at the intersection of McIntyre Road and Tomago Road when considering 10 years of background traffic growth, reducing intersection performance from level of service (LOS) B to E during the afternoon peak for right-turn movements. The TIA noted the priority traffic control at the intersection of School Drive and McIntyre Road could be changed, to reduce the potential for queued traffic to reach back to the intersection with Tomago Road (as the distance between the two intersection is 26 metres). As these are local roads, any changes would need to be approved by Council. TfNSW reviewed the TIA and supplementary information and concluded the development would not have a significant impact on the State road network. Council did not comment on the traffic impacts of the development. Construction traffic volumes would be lower than operational traffic and were considered to have a negligible impact on the road network. The Department notes the development would be safely accommodated on the road network with minor increased delays. The 468 vehicle movements per day represents 6% of total traffic volumes on Tomago Road (7,500 vehicles per day). The access roads to the site service the Tomago industrial area and would have accommodated previous heavy vehicle movements from the aluminium and rod manufacturing facility on the site. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> ensure internal roads, driveways and parking comply with Australian Standards and AUSTRROADS guidelines vehicles are wholly contained on site and do not park on the public road network. provide sufficient parking facilities on site for staff and heavy vehicles.

Issue	Findings	Recommendations
	<ul style="list-style-type: none"> The Department's assessment concludes the development would have minor traffic impacts and recommends standard conditions for operational traffic management. 	
Noise	<ul style="list-style-type: none"> The development is in an industrial area, with the nearest rural residence located 760 m to the east. The Applicant provided a noise impact assessment (NIA) predicting worst-case noise impacts from the development for comparison with relevant guidelines for construction, industrial and road traffic noise. The NIA predicted noise from operation would be below the project noise trigger levels (40 decibels) at the nearest rural residential receiver during the sensitive night-time period. The assessment considered worst-case operations, including all building doors open during processing activities and maximum truck movements. Noise levels at adjacent industrial receivers would also comply with relevant criteria during day, evening and night-time periods. The NIA predicted operations would comply with sleep disturbance criteria and would increase existing road traffic noise on Tomago Road by less than 0.5 decibels, which would be negligible. Construction noise impacts were also predicted to comply with relevant criteria, noting works would be of limited duration and would be conducted during day time hours. The EPA reviewed the NIA and did not provide any comments or recommended conditions. The Department has recommended standard conditions for noise management, including noise criteria for residential receivers. The Department's assessment concludes the noise impacts from the development would be negligible given its location in an industrial area, processing activities being undertaken inside buildings and given the large distance from sensitive receivers. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> comply with standard construction working hours. conduct waste processing, storage and handling activities inside enclosed buildings. comply with noise criteria at residential receivers.
Hazards and Fire Safety	<ul style="list-style-type: none"> The development would store and transport dangerous goods, but these are below the threshold quantities in the Department's <i>Applying SEPP 33 Guidelines</i>. The Department's hazards team reviewed the EIS and confirmed the development is not potentially hazardous or offensive under SEPP 33. The Department recommends standard conditions for storage and transport of dangerous goods in quantities below the thresholds. The Department's hazards specialist noted the Fire Safety Study submitted with the EIS considered FRNSW's <i>Fire Safety in Waste Facilities 2020</i> and recommended the Applicant consult with FRNSW throughout the Fire Engineering Brief Process for detailed design. FRNSW noted it would review the Fire Safety Study following determination of the application. The Department's assessment concludes the development is not potentially hazardous and would be designed to address current fire safety standards in consultation with FRNSW. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> store and handle dangerous goods below the threshold quantities and in accordance with Australian Standards. Consult with FRNSW during the fire engineering brief process. Design, install and operate the development in accordance with FRNSW's <i>Fire Safety in Waste Facilities 2020</i>.
Bushfire	<ul style="list-style-type: none"> The site is mapped as bushfire prone land and has areas of native vegetation adjoining the northern boundary. A Bushfire Assessment Report (BAR) for the development concluded the development would comply with <i>Planning for Bushfire Protection 2019</i> (PBP 2019). The BAR reviewed the locations for storage of fuels and hazardous materials and operational access for firefighting. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> manage the site as an inner protection area in accordance with PBP 2019.

Issue	Findings	Recommendations
	<ul style="list-style-type: none"> The BAR recommended the site be managed as an inner protection area and the emergency plan for the development include procedures for bushfire evacuation and management planning. RFS reviewed the BAR, raised no objection and confirmed the site should be managed as an inner protection area in accordance with PBP 2019. The Applicant's RTS provided confirmation that the landscape plan for the development complies with the requirements for inner protection areas. The Department recommends the requirements of RFS and the recommendations of the BAR be included as conditions. The Department's assessment concludes the bushfire risks of the development have been adequately addressed and the development would comply with PBP 2019. 	<ul style="list-style-type: none"> include procedures for bushfire evacuation and management planning in the emergency plan for the site.
Biodiversity	<ul style="list-style-type: none"> The site is highly disturbed from previous sand mining and metal manufacturing activities and is largely covered by buildings and hardstand. 21F School Drive is vacant and grassed. A BDAR was prepared for the development in accordance with relevant guidelines. The BDAR noted the presence of 1.28 ha of plant community type Red Bloodwood – Smooth-barked Apple heathy woodland on coastal sands of the central and lower north coast. The vegetation is located on the northern and eastern boundaries of 21F School Drive. The plant community type was classified as disturbed, with a vegetation integrity score below the level requiring further assessment. Flora and fauna surveys found no threatened species on site but assumed the presence of Mahony's Toadlet (<i>Uperoleia mahonyi</i>) a species listed as vulnerable under the BC Act. Construction of the truck parking depot would require removal of 0.1 ha of Red Bloodwood – Smooth-barked Apple and assumed habitat for Mahony's Toadlet. The BDAR concluded these impacts would be negligible and recommended retirement of 1 species credit species for Mahony's Toadlet, by payment into the Biodiversity Conservation Fund. The BDAR noted the presence of four priority weeds listed under the <i>Biosecurity Act, 2015</i> and recommended removal and routine weed control. The BDAR also confirmed there would be no impacts on matters of national environmental significance under the EPBC Act. EESG reviewed the BDAR and did not provide any comments or recommendations. The Department has recommended conditions for retirement of 1 species credit species and management of priority weeds on the site. The Department's assessment concludes the biodiversity impacts of the development would be negligible and adequately offset. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> retire 1 species credit species (Mahony's Toadlet), prior to construction. remove priority weeds from the site and carry out routine weed management.
Heritage	<ul style="list-style-type: none"> The Applicant provided an Aboriginal Cultural Heritage Assessment Report (ACHAR) for the site that was prepared in accordance with relevant guidelines. The ACHAR found no Aboriginal sites or potential archaeological deposits on the site, noting its previous disturbance for industrial activities. The ACHAR recommended the Applicant implement an unexpected finds protocol during construction. A Statement of Heritage Impact (SoHI) was prepared, which noted there are no heritage items on the site. The closest heritage item is Tomago House and Chapel, 350 m to the east. There would be no impact on this heritage item. 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> implement an unexpected finds protocol for construction works. include heritage obligations in induction training for

Issue	Findings	Recommendations
	<ul style="list-style-type: none"><li data-bbox="379 277 1082 387">• The Department concludes the development would not impact on Aboriginal or non-Aboriginal heritage and recommends standard conditions for managing any unexpected finds during construction.	all personnel working on site.

7 Evaluation

The Department has assessed the proposed Remondis Resource Recovery Facility (SSD 10447) considering 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 considered the development in the context of the aims and objectives of strategic waste policies and other relevant strategic and statutory planning instruments.

The proposal is State Significant Development as it is development of a liquid waste depot that treats, stores or disposes of more than 1,000 tpa of liquid industrial waste. The development would generate 15 construction jobs, 76 operational jobs and invest \$8.9 million in the Port Stephens LGA.

The development involves installing resource recovery equipment inside two existing industrial buildings within the Tomago Industrial Area.

The Department has carried out a detailed assessment of the merits of the development, has consulted with key government agencies and the public and closely considered the issues raised during its assessment of the application. The key issues include waste management and contamination. Other issues considered included air quality, stormwater and wastewater management, flooding, traffic, hazards and fire safety, bushfire risk, biodiversity and heritage.

None of the State government agencies, Council or the community have objected to the proposal and the Department has sought to address any issues raised through consultation with both the government agencies and the Applicant. The EPA provided details conditions and noted that an Environment Protection Licence would be required to operate the facility. Council recommended conditions for stormwater and on-site sewage management and EES recommended conditions for flood risk management. HWC and TfNSW confirmed they were satisfied with the information provided and did not recommend specific conditions.

The Department's assessment concluded the development:

- would increase recycling capacity in the Hunter region and contribute to achieving the NSW Government's targets for 70% resource recovery from municipal, commercial and industrial waste sources
- would remove existing soil contamination to enable continued industrial use of the site, enabling the reuse of industrial buildings that are currently unoccupied
- incorporates adequate measures for managing all waste streams to ensure minimal environmental impacts
- has been designed to minimise air and noise emissions by conducting waste handling and processing activities within enclosed buildings
- includes a stormwater management system capable of treating pollutants from the site to ensure minimal impact on receiving waters, including groundwater
- would be safely accommodated on the surrounding road network, with adequate queuing capacity for trucks and parking for staff on site
- includes measures to minimise risks from flooding and fire, and meets the latest fire safety and building code standards.

The Department's assessment concluded that the impacts of the development can be mitigated and managed to ensure an acceptable level of environmental performance. The development is consistent with strategic waste policy to improve recycling capacity and minimise waste sent to landfill. The development optimises the use of existing industrial land for waste recycling and to generate employment.

The Department has recommended a range of conditions to manage the residual impacts of the development, including remediation, stormwater and wastewater management, dust and odour control, noise limits, management of dangerous goods, flooding and fire risk. 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 *Environmental Planning and Assessment Act 1979*, it is recommended that the **Director Industry Assessments**, as delegate of the Minister for Planning and Public Spaces and Minister for Transport and Roads:

- **considers** the findings and recommendations of this report
- **accepts and adopts** all of 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 the Remondis Resource Recovery Facility, Tomago (SSD 10447), subject to the conditions in the attached development consent
- **signs** the attached development consent and recommended conditions of consent (see **Appendix D**).

Recommended by:



11 October 2021

Deana Burn
Specialist Planner
Industry Assessments

9 Determination

The recommendation is **Adopted** by:



12 October 2021

Chris Ritchie
Director
Industry Assessments

Appendices

Appendix A – List of Documents

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

Environmental Impact Statement

- Environmental Impact Statement REMONDIS Australia Pty Ltd Tomago Resource Recovery Facility and Truck Parking Depot (SSD-10447) prepared by Jackson Environment and Planning dated December 2020

Submissions

- All submissions received from relevant public authorities

Response to Submissions

- Response to Submissions Report REMONDIS Australia Pty Ltd Tomago Resource Recovery Facility and Truck Parking Depot (SSD-10447) prepared by Jackson Environment and Planning dated 8 June 2021
- Supplementary Information submitted 13 August 2021 including Waste Minimisation and Management Plan dated 12 August 2021 and Addendum Traffic Impact Assessment dated 13 August 2021

Statutory Documents

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

All documents relied upon by the Department during its assessment of the application may be viewed at: <https://www.planningportal.nsw.gov.au/major-projects/project/30156>

Appendix B – Considerations under Section 4.15 of the EP&A Act

Matters for Consideration under Section 4.15 of the EP&A Act

Matter	Consideration
a) the provisions of: <ul style="list-style-type: none"> i.) any environmental planning instrument, and 	The Department has considered the relevant environmental planning instruments in its assessment of the development, see Appendix C .
<ul style="list-style-type: none"> ii.) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and 	The Department has considered the relevant draft environmental planning instruments in its assessment of the development, see Appendix C .
<ul style="list-style-type: none"> iii.) any development control plan, and 	Under clause 11 of the SRD SEPP, development control plans do not apply to State significant development. However, the Department has considered the Port Stephens DCP 2014 and concluded the development complies with the controls in the DCP.
<ul style="list-style-type: none"> iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and 	There is no Planning Agreement for the development.
<ul style="list-style-type: none"> iv.) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates, 	The Department has assessed the development in accordance with all relevant matters prescribed by the regulations, the findings of which are contained in this report.
b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The 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.
c) the suitability of the site for the development,	The development is located in the Tomago Industrial Area and contains unoccupied buildings that have previously been used for industrial activities. The site is suitable for on-going industrial use.
d) any submissions made in accordance with this Act or the regulations,	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.

Matter	Consideration
e) the public interest.	The development would generate up to 15 jobs during construction, 76 jobs during operation and direct \$8.9 million in capital investment in the Port Stephens local government area . The environmental impacts of the development would be appropriately managed via the recommended conditions. The Department considers to the development is in the public interest.

Appendix C – Consideration of Environmental Planning Instruments

To satisfy the requirements of section 4.15(1) of the EP&A Act, the following EPI's were considered as part of the Department's assessment:

- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP)
- State Environmental Planning Policy No. 64 – Advertising Structures and Signage (SEPP 64)
- Port Stephens Local Environmental Plan 2013
- Port Stephens Development Control Plan 2014.

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The SRD SEPP identifies certain classes of development as SSD. The proposal is State significant development pursuant to section 4.36 of *Environmental Planning and Assessment Act 1979* (EP&A Act) because it involves development of a liquid waste depot that treats, stores or disposes of industrial liquid waste and handles more than 1,000 tpa of liquid industrial waste. This meets the criteria in Clause 23(6)(b) of Schedule 1 in the SRD SEPP.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The ISEPP aims to facilitate the effective delivery of infrastructure across the State and lists the types of development that are permissible in prescribed zones and the types of development defined as Traffic Generating Development. The ISEPP makes provision for waste or resource management facilities to be undertaken within a prescribed zone, which includes the IN1 General Industrial zone. The site is zoned IN1 General Industrial under the BLEP 2015, therefore the proposed development is permissible under the ISEPP.

Waste or resource management facilities are listed under Schedule 3 of the ISEPP as traffic generating developments and must be referred to TfNSW. The Applicant prepared a Traffic Impact Assessment in accordance with the requirements of TfNSW Guide to Traffic Generating Developments and the Department referred the application to TfNSW for comment. TfNSW's comments are considered in **Sections 5** and **6** of this report. The Department has incorporated TfNSW recommendations into the conditions of consent.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33)

SEPP 33 aims to identify developments with the potential for significant off-site 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 off-site receptors. The Applicant prepared a risk screening which confirmed the development would not store dangerous goods above the threshold quantities listed in SEPP 33. The Department's hazards

specialist reviewed the risk screening and recommended conditions requiring the storage of dangerous goods below the threshold quantities listed in SEPP 33.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) and the draft State Environmental Planning Policy (Remediation of Land) (draft Remediation SEPP)

SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application. The draft Remediation SEPP retains the key operational framework of SEPP 55. The Department reviewed the Applicant's contaminated site assessment and remedial action plan (RAP) and concludes the land would be made suitable for continued industrial use following implementation of the RAP. The Department has recommended conditions for on-going groundwater monitoring and a long-term environmental management plan to ensure residual soil and groundwater contamination is appropriately managed. The Department is satisfied the development is consistent with the aims of SEPP 55 and the draft Remediation SEPP.

State Environmental Planning Policy No. 64 – Advertising Structures and Signage (SEPP 64)

SEPP 64 aims to ensure that outdoor signage is compatible with the desired amenity and visual character of an area, and provides effective communication in suitable locations, that is of a high-quality design and finish. The Applicant considered the proposed signage against the provisions of SEPP 64 in its EIS noting there would be business identification signage visible from the road network. The Department reviewed the assessment and notes the building signage would not be visible from any residential areas and is within an industrial area.

Port Stephens Local Environmental Plan 2013 (PSLEP 2013)

The PSLEP 2013 aims to conserve and protect natural resources and provide opportunities to facilitate economic growth, locally based employment, housing choice and infrastructure. The development is located on industrial zoned land and is consistent with the objectives to provide a wide range of industrial uses and encourage employment opportunities. The development would use existing industrial buildings and generate 76 jobs in the local area.

Port Stephens Development Control Plan 2014 (DCP 2014)

The DCP 2014 includes development controls covering flooding, stormwater management, heritage, air quality, noise and traffic. The Applicant reviewed the development against the specific controls for industrial areas and concluded the development is consistent with the DCP. The Department reviewed this assessment and agrees the development is consistent with the DCP.

Appendix D – Recommended Instrument of Consent