

ASSESSMENT REPORT

Section 96(1A) Modification Erskine Park Waste and Resource Management Facility (SSD 7075 MOD 1)

1. INTRODUCTION

This report assesses a modification application by Cleanaway Waste Management Limited (the Applicant) to modify the concept proposal and Stage 1 development for State significant development consent (SSD 7075) for the Erskine Park Waste and Resource Management Facility (WRMF), which is located within the Penrith Local Government Area (LGA). The modification includes minor site layout changes, deferral of some elements of the development to Stage 2 and some administrative changes. The application has been lodged pursuant to section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

2. BACKGROUND

In October 2016, development consent was granted for the WRMF at 85-87 Quarry Road, Erskine Park in the Penrith local government area (see **Figure 1**). The site is legally known as Lot 1 in DP 1140063. To date, the WRMF has not been constructed. The site and the adjacent existing Erskine Park Landfill are owned by the Applicant. The site is currently utilised by the Applicant to support the adjacent Erskine Park Landfill and contains demountable office buildings, car parks, sheds, laydown areas, a weighbridge and sealed roads. The landfill is expected to close in the next few years.

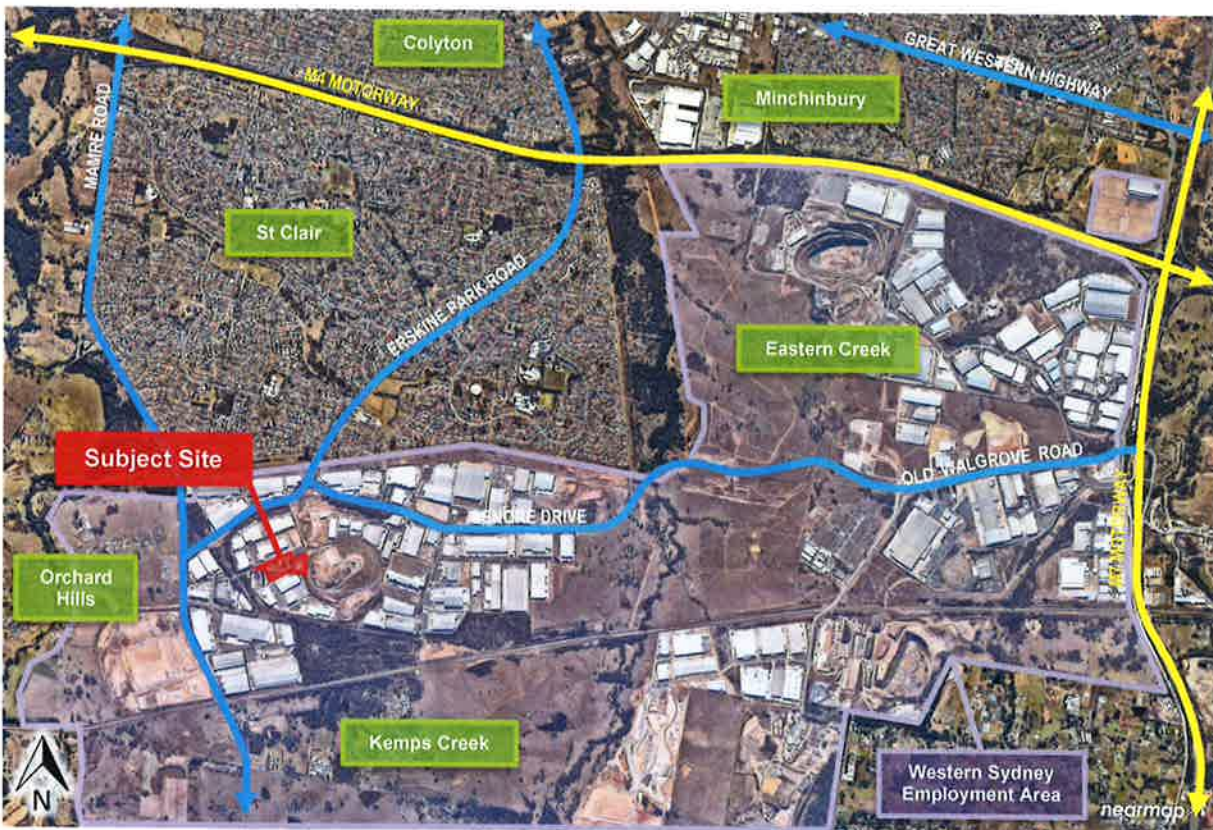


Figure 1: Site Location

The site is located within an existing industrial precinct known as the Erskine Park Industrial Estate which falls within the Western Sydney Employment Area (WSEA), as identified under the *State*

Environmental Planning Policy (Western Sydney Employment Area) 2009. The surrounding land uses are primarily industrial in nature and include manufacturing facilities, warehouses and dairy processing.

There is one isolated resident located within the Erskine Park Industrial Estate, approximately 1.3 kilometres (km) east of the site. The nearest residential dwellings are located at St Clair approximately 740 metres (m) to the north of the site. A childcare facility has been built on Mamre Road approximately 670 m to the west of the site.

The site and surrounds are identified in **Figure 2** below.



Figure 2: The Site and Surrounds

3. APPROVAL HISTORY

On 5 October 2016, consent was granted by the Planning Assessment Commission (the Commission), as delegate of the Minister for Planning, for the staged development of the Erskine Park WRMF (SSD 7075). The staged development application (DA) consists of:

- a concept proposal for the WRMF which includes:
 - a WTS (Stage 1) capable of processing up to 300,000 tpa of C&I and Municipal Solid Waste (MSW);
 - a Resource Recovery Facility (RRF) (Stage 2) that would be designed to process up to 150,000 tpa of recyclable material from the WTS (Stage 1) into saleable commodities; and
- Stage 1 physical works, including demolition of existing structures, construction and operation of the WTS.

The WRMF will have a maximum processing capacity of 300,000 tonnes per annum (tpa) of commercial and industrial waste (C&I) and municipal solid waste (MSW). The WTS would be constructed first, followed by the RRF (referred to as Stage 2) which will be subject to a further development application (DA). The site's office, truck and car parking would be utilised by the entire WRMF (Stages 1 and 2) and are approved to be constructed as part of Stage 1. To date, physical works at the site have not commenced.

The approved concept proposal (Stages 1 and 2) is shown in **Figure 3**.

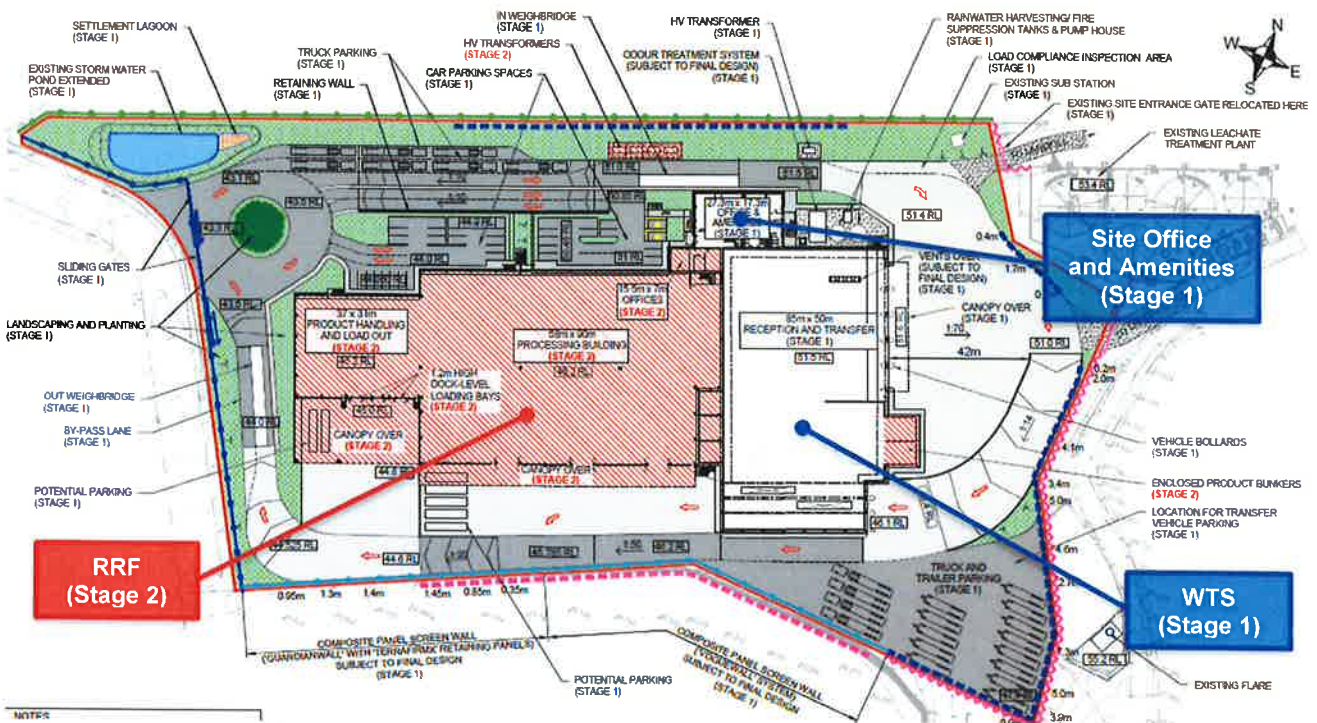


Figure 3: Approved Concept Proposal Stages 1 and 2

4. PROPOSED MODIFICATION

The Applicant has lodged a modification application under section 96(1A) of the EP&A Act to modify the concept proposal and Stage 1 development. The concept proposal encompasses both the WTS (Stage 1) and RRF (Stage 2). The Stage 1 works includes physical works such as demolition of existing structures and construction and operation of the WTS.

Following further design of the development, and to make the development more economically viable, the Applicant has proposed the following:

- changes to the site levels and a reduction of the amount of bulk earthworks across the site;
- deferral of the construction of the car park from Stage 1 to Stage 2, and the construction of an interim car park for Stage 1;
- deferral of the construction of the site office from Stage 1 to Stage 2 (existing demountable buildings currently owned and utilised by the Applicant for the existing adjacent landfill will be used for Stage 1);
- removal of the south-east truck parking and replacement with a landscaped area;
- construction of two additional landfill exit ramps;
- deferral of the construction of two load out bays in the WTS to Stage 2; and
- reduce the capacity of the stormwater detention basin;

It should be noted Stage 2 will be subject to a further DA and the modification application does not propose to increase production capacity or change the overall function of the site as a WRMF.

The modification is described in full in the Statement of Environmental Effects (SEE) included in **Appendix B**, is summarised in **Table 1** and is illustrated on **Figure 4** and **Figure 5**. It is noted that whilst the Applicant is seeking to modify the concept proposal, physical works are only permitted under Stage 1. Stage 2 is subject to a future DA.

Table 1: Summary of Proposed Modification

Aspect	Approved	Proposed Modification
Car parking	<ul style="list-style-type: none"> • Stage 1 car park with 10 parking spaces over an area of 925 m² with a 5.5 m retaining wall. 	<ul style="list-style-type: none"> • An overall increase in car parking to facilitate the continued operation of the adjacent landfill and ensure all staff and visitors park on-site. • Defer car park to Stage 2 and provide interim parking in the RRF footprint, resulting in:

Aspect	Approved	Proposed Modification
		<ul style="list-style-type: none"> - Stage 1 car park with 20 spaces (+10) over an area of 580 m² (-345 m²); and - Stage 2 car park with 55 spaces (+45) over an area of 1,560 m² (+635 m²) in a tiered layout. • The Stage 2 car park would replace the Stage 1 car park.
Truck parking	<ul style="list-style-type: none"> • Stage 1 truck parking for 24 parking spaces provided over two parking areas, being: <ul style="list-style-type: none"> - parallel truck parking area along the north-west site boundary; and - truck parking in the south-east corner of the site. 	<ul style="list-style-type: none"> • Reduce the provision of truck parking due to a decision to contract out pick up and deliveries. • Removal of the south-east truck parking and replacement with a landscaped area and landfill exit ramp. • Seven truck parking spaces (-17) provided along the north-west site boundary over two stages, being: <ul style="list-style-type: none"> - Stage 1 truck parking with four spaces; and - Stage 2 truck parking for an additional three spaces.
Landfill access	<ul style="list-style-type: none"> • One access ramp to the adjacent landfill. 	<ul style="list-style-type: none"> • Two access ramps to the adjacent landfill, consisting of one inbound ramp and one outbound ramp, to improve maneuverability. • The outbound landfill ramp and additional landscaping would replace the south-eastern truck parking area. • Outbound landfill traffic would give-way to WRMF traffic.
Office	<ul style="list-style-type: none"> • Stage 1 two-storey office building with a footprint of 472.3 m². 	<ul style="list-style-type: none"> • Defer construction of the permanent office to Stage 2. • Stage 1 temporary one-story office constructed from the existing demountable building with a footprint of 360 m².
WTS load-out bays	<ul style="list-style-type: none"> • Stage 1 WTS consisting of: <ul style="list-style-type: none"> - three WTS load-out bays; and - WTS building with a footprint of 4,250 m². • Trucks enter and exit the load-out bays in a forward manner. 	<ul style="list-style-type: none"> • Defer construction of load-out bays two and three to Stage 2. • Reduce footprint of the WTS building to 3,800 m² (-450 m²). • Trucks reverse into load-out bay.
Earthworks	<ul style="list-style-type: none"> • Cut volume of 75,389 m³. • Fill volume of 20,086 m³. 	<ul style="list-style-type: none"> • Modify the site levels for an overall reduction in the extent of earthworks required, resulting in: <ul style="list-style-type: none"> - a cut volume of 53,650m³ (-21,739 m³); and - a fill volume of 2,835m³ (-17,251 m³).
Stormwater	<ul style="list-style-type: none"> • Stormwater detention basin with a capacity of 740 m³. • Rainwater harvesting tanks with a capacity of 56 ML. 	<ul style="list-style-type: none"> • Reduce capacity of detention basin to 710 m³ (-30 m³). • Increase rainwater harvesting tank capacity to 159 ML (+103 ML) to include wheel washing activities.
Conditions of consent	<p><u>Audit</u></p> <ul style="list-style-type: none"> • The Applicant must undertake an independent environmental audit of the development within one year from the date consent was granted. <p><u>Traffic and Access</u></p> <ul style="list-style-type: none"> • A total of ten car parking spaces. • Truck deliveries shall be scheduled to avoid peak hours, unless they are done via Erskine Park Road. 	<p><u>Audit</u></p> <ul style="list-style-type: none"> • The Applicant must undertake an independent environmental audit of the development within one year from the commencement of operations. <p><u>Traffic and Access</u></p> <ul style="list-style-type: none"> • A total of 20 car parking spaces (Stage 1). • Truck deliveries shall be scheduled to avoid peak hours, where possible, unless they are done via Erskine Park Road. <p><u>Concept Proposal</u></p> <ul style="list-style-type: none"> • Modify the Concept Proposal to facilitate the proposed modifications.

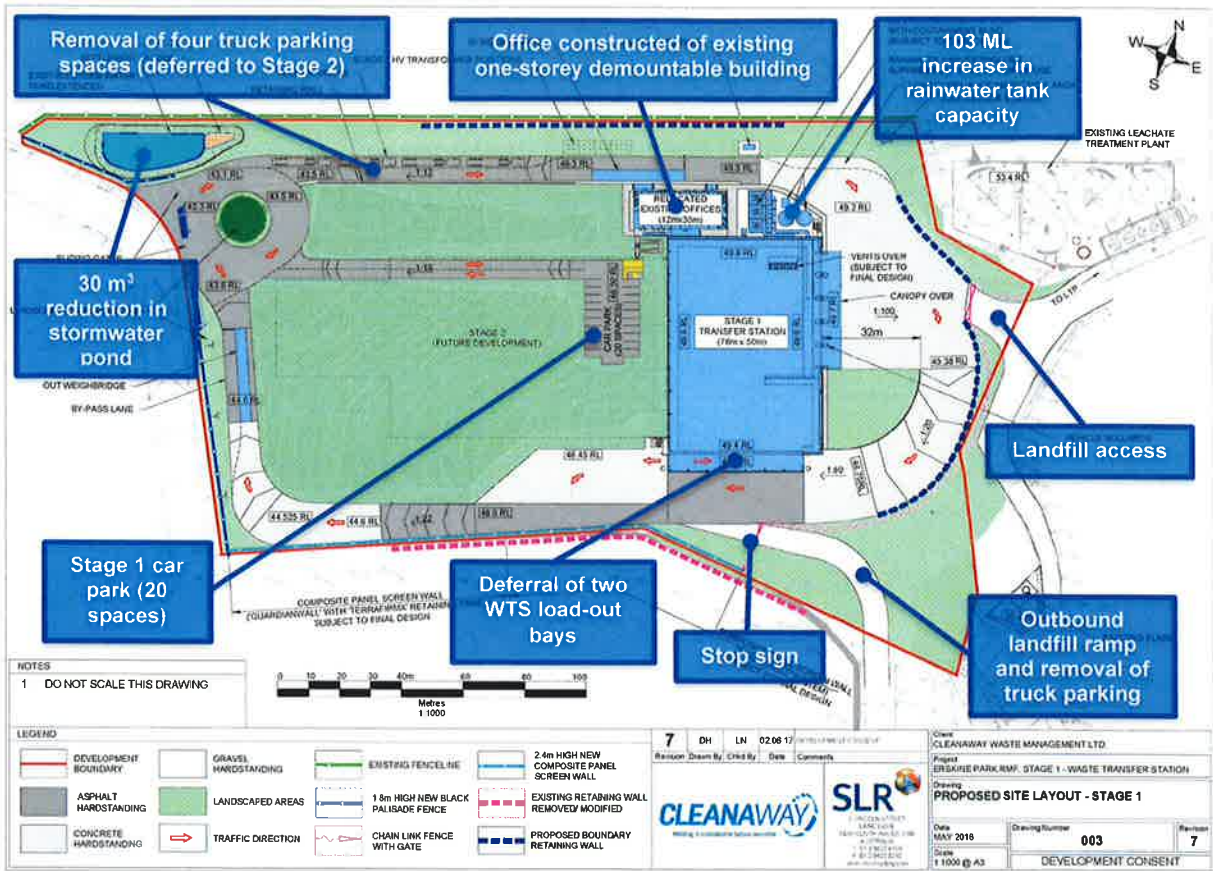


Figure 4: Proposed Stage 1 DA

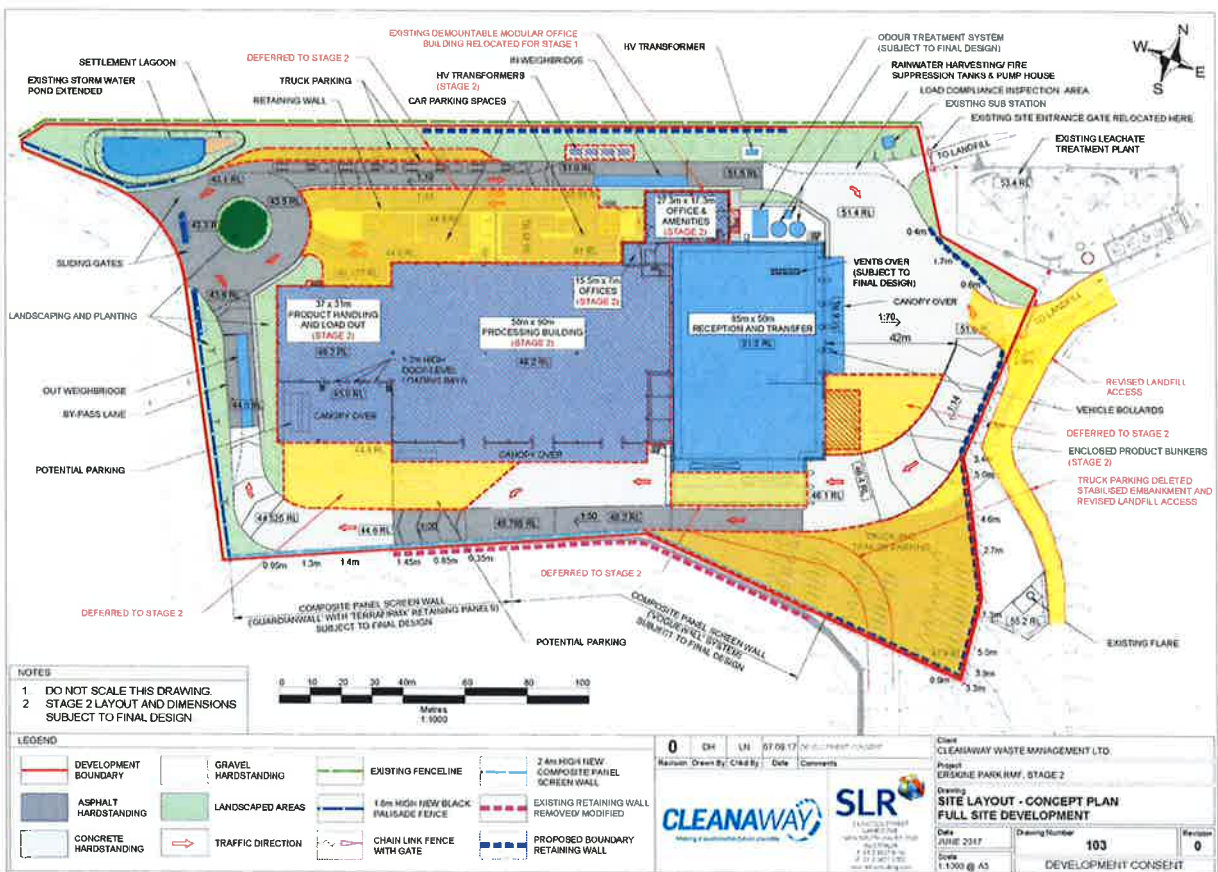


Figure 5: Proposed Concept DA

5. Applicant's Justification for the Proposed Modification

Minor changes to the development were identified by the Applicant during the detailed design stage of the development. The deferral of construction for some components of Stage 1 to Stage 2 would reduce upfront costs, making the development more economically viable. The reduction in the extent of earthworks and the reuse of the existing demountable building would also reduce construction costs.

The modification also reflects operational changes, such as the decision to contract out deliveries, removing the need for on-site truck parking. Consequently, the removal of the truck parking would allow for additional landscaping and the provision of an outbound landfill ramp. The additional landscaping would reduce the amount of hardstand and the resulting surface water runoff. On-site water usage and the necessary rainwater storage capacity was increased to include wheel wash activities.

The Applicant has indicated that the modification application would not result in any increases in production capacity or changes to the overall function of the site as a WRMF. The site currently operates to support the adjacent landfill, and the proposed modification would allow this function to continue while the landfill is in operation.

6. STATUTORY CONTEXT

6.1 Consent Authority

The Minister for Planning is the consent authority for the application. Under the Minister's delegation of 16 February 2015, the Acting Director, Industry Assessments, may determine the application under delegation as:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

As Council did not object, no political donations were declared and no public submissions were received, the Director, Industry Assessments may determine the modification application.

6.2 Section 96(1A)

The Department has reviewed the scope of the modification application and is satisfied that the proposed modification would result in minimal environmental impacts, and relates to substantially the same development as the original development consent on the basis that:

- the primary function and purpose of the approved project would not change as a result of the proposed modification;
- the modification is of a scale that warrants the use of section 96(1A) of the EP&A Act;
- the approved processing rates of 300,000 tpa of C&I and MSW (Stage 1) and 150,000 tpa of recyclable material (Stage 2) would remain unchanged as a result of the proposed modification; and
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of approval.

Therefore, the Department is satisfied the proposed modification is within the scope of section 96(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 96(1A) of the EP&A Act rather than requiring a new development application to be lodged.

7. CONSULTATION

Clause 117(3B) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation does not apply to State significant development (SSD). Notwithstanding, the application was notified and made publicly available on the Department's website on 18 July 2017. The application was referred to Penrith City Council (Council), the Environment Protection Authority (EPA), Transport for NSW (TfNSW), the Department of Primary Industries and the adjacent landowners/occupiers for comment.

During the notification period, a total of five submissions were received from public authorities and no submissions were received from the public.

Neither Council or the public authorities objected to the modification or raise any issues in relation to the proposed modification.

8. ASSESSMENT

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered the:

- the SEE provided to support the proposed modification (see **Appendix B**);
- the assessment report for the original development application and subsequent modification application(s);
- submissions from State government authorities and Council (**Appendix C**);
- relevant environmental planning instruments, policies and guidelines; and
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department's assessment of the modification application is provided in **Table 2**.

Table 2: Assessment of Issues

Issue	Assessment	Recommendation
Site Maneuverability	<ul style="list-style-type: none"> • The modification application seeks to add a second access ramp to the adjacent landfill and defer two of the three WTS load-out bays to Stage 2. • The modification has the potential to impact site maneuverability, particularly as the adjacent landfill also utilises the site. <p><u>Landfill Access</u></p> <ul style="list-style-type: none"> • An additional landfill access driveway is proposed in the location of where the south-east truck parking would be. This landfill ramp would be for outgoing traffic only. • The landfill outbound traffic would give the right-of-way to WTS traffic with the use of a stop sign as these drivers would have a better line of sight. • The Applicant has also included swept path diagrams in the modification application for landfill access ramps. • The Department considers the provision of a stop sign at the landfill outbound ramp would ensure traffic movements from the operation of the WRMF and the adjacent landfill are appropriately managed. <p><u>WTS Load-Out Bays</u></p> <ul style="list-style-type: none"> • The modification application seeks to defer two of the three WTS load-out bays to Stage 2. • Due to the proposed site level modifications and the deferral of two WTS load-out bays, trucks would be required to reverse into the load out bay for Stage 1. Previously, trucks would enter and exit the load out bays in a forward manner. • The Applicant advised that trucks would only reverse for a short distance and vehicle movements would be monitored by staff at the weighbridges. • The Department's assessment concludes the reconfiguration of the access to the adjacent landfill and the deferral of two load out bays would not result in significant changes to site manoeuvrability or impact the functionality and safety of the site's access arrangements. • The Department considers the existing conditions of consent adequately address site maneuverability, subject to the installation of the stop sign. 	<p>Require the Applicant to install a stop sign at the outbound landfill ramp.</p>
Parking	<ul style="list-style-type: none"> • The modification application seeks to amend the provision and layout of parking, for an overall increase in car parking and decrease in truck parking. <p><u>Car Parking</u></p> <ul style="list-style-type: none"> • The modification application seeks to defer the construction of the main car parking facility to Stage 2, and provide an interim parking measure within the RRF footprint, resulting in: <ul style="list-style-type: none"> - a Stage 1 car park with 20 spaces over an area of 580 m² within the RRF footprint; and - a Stage 2 car park with 55 spaces over an area of 1,560 m² in a tiered layout. • The resulting overall provision of parking (Stages 1 and 2) includes an additional 45 car park spaces, over an additional area of 635 m². • The Applicant advises that the redesigned tiered layout would soften the view of the parking area from Quarry Road as the 	<p>Amend the conditions of consent to facilitate the proposed parking modifications.</p>

Issue	Assessment	Recommendation
	<p>original parking design included two levels divided by a retaining wall.</p> <ul style="list-style-type: none"> • The Applicant noted that the adjacent landfill is now expected to operate over a longer period, whereas at the time of the original consent its closure was anticipated. The additional car parking spaces would facilitate the parking requirements of the adjacent landfill operations and avoid the risk of off-site parking. • The Department notes that the site currently operates to support the adjacent landfill, and the proposed modification would allow this function to continue while the landfill is in operation. • The Department also considers that the revised tiered layout of the Stage 2 car park represents a more efficient use of space. • Further, the increased provision of car park spaces is more in-line with the <i>Penrith Development Control Plan 2014</i> (DCP), which required 60 spaces (1 space per 75 m² of gross floor area). <p><u>Truck Parking</u></p> <ul style="list-style-type: none"> • The modification application seeks to remove the truck parking from the south-east corner of the site and defer the construction of the truck parking at the north-west boundary of the site to Stage 2. • The south-eastern truck parking would no longer be required as contractors would be hired rather than the Applicant undertaking transfer haulage activities in-house. • The Applicant advised the removal of the south-east truck parking would reduce up-front development costs and decrease the total hard-stand area and associated runoff. • The Department considers the Applicant's justification for the removal and deferral of truck parking appropriate given it would not result in any additional impact. • The Department's assessment concludes the proposed modifications to car and truck parking would not result in any impacts beyond what was assessed for the original application. • The Department considers the existing conditions of consent adequately address parking, subject to minor amendments to facilitate the proposed modifications. 	
Surface Water	<ul style="list-style-type: none"> • The modification application seeks to reduce the on-site detention (OSD) pond volume from 740 m³ to 710 m³ and increase the volume of the rainwater harvesting tanks from 56 kL to 159 kL. • The increase in the rainwater harvesting tank storage volume would be in response to revised operational water demands, the modified catchment and stormwater design and the inclusion of wheel washing activities in the calculations. • The modification application involves amendments to the site levels and a reduction in the amount of hardstand, resulting in changes to the surface water movement and management. • The modification application included a revised Surface Water Assessment, prepared by SLR and dated June 2017, which indicated an overall decrease in impervious area from 87% to 84%, however there would be an increase in the stream erosion index from 1.64 to 3.5. • The assessment also indicates the predicted gross pollutants, total suspended solids (TSS), total phosphorus (TP) and total nitrogen (TN) of the proposed modification would be less than the predictions of the EIS for the original application. • The Department notes the revised catchment and stormwater design would remain in compliance with the pollution load reduction objectives under Council's <i>Water Sensitive Urban Design (WSUD) Policy</i> (December 2013). • The Department's assessment concludes the modification application would not result in impacts to surface water beyond what has already been assessed as part of the original application. • The modification would result in a decrease in the amount impervious area, runoff and pollutant loads then previously assessed and would continue to meet the stormwater storage capacity and quality objectives. • The Department considers the existing conditions adequately address surface water as they include the provision to review, and 	No additional conditions are recommended.

Issue	Assessment	Recommendation
Visual	<p>if necessary revise, the strategies, plans and programs of the consent within three months of a modification.</p> <ul style="list-style-type: none"> • The modification application seeks to defer the construction of the permanent two-storey office to Stage 2. • In the interim, a temporary office (now Stage 1) utilising the existing demountable building would be located within the footprint of the office as currently approved. • The Applicant proposes to install a 3 m high by 12.7 m wide screen on the side of the office building viewable to staff and visitors. The screen would be constructed from powder coat aluminum panels. • The Applicant provided a revised visual impact assessment which includes building elevations and a visual significance matrix. • The Applicant also proposes to plant additional vegetation along the western boundary of the site to further reduce visual impact. • The Department considers the site is located within an established industrial precinct with the nearest sensitive receiver located 670 m away (childcare centre). The existing industrial development surrounding the site blocks the view of majority of the site. The modification application would also include a screen to mask the visual appearance of the temporary office, additional landscaping and a revised tiered car park (Stage 2) that provides a softer visual appearance than the previous car park design. • The Department's assessment concludes the modification would not result in a visual impact beyond what has already been assessed as part of the original SSD application. • The Department considers the existing conditions of consent adequately address parking, subject to minor amendments to facilitate the proposed modifications. 	<p>Amend the conditions of consent to facilitate the proposed interim office building, including the screen.</p>
Conditions of Consent	<p><u>Auditing and Annual Review</u></p> <ul style="list-style-type: none"> • The conditions of consent require the Applicant to undertake an independent environmental audit (IEA) within one year from the date consent was granted (Schedule C Part C Condition C8). • The Applicant has requested to amend the condition to require an IEA within one year of the commencement of operations, as physical commencement of the development has not yet commenced. • The Department considers the IEA is more beneficial once the development is operational and supports this amendment. As such, the Department recommends that the IEA condition be modified in the manner proposed. • For the same reason above, the Department has recommended the modification of the annual review condition to require an annual review within one year of the commencement of construction, rather than within one year of the date the consent was granted (Schedule C Part C Condition C10). <p><u>Peak Hour Deliveries</u></p> <ul style="list-style-type: none"> • The conditions of consent require the Applicant to avoid peak hour truck deliveries, unless they are done via Erskine Park Road (Schedule C Part B Condition B30(f)). • The Applicant has requested to modify this condition to include the wording 'where possible'. • The Department considers the wording 'to avoid' inherently allows for some flexibility and therefore the proposed modification is not necessary. 	<p>Modify the conditions of consent to:</p> <ul style="list-style-type: none"> • require auditing within one year of the commencement of operations; and • require an annual review within one year of the commencement of construction.

9. CONCLUSION

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modification is appropriate on the basis that:

- the proposed modification would result in minimal environmental impacts beyond the approved facility;
- the production capacity would not increase as a result of the modification; and
- the benefits of the approved development would remain applicable, being the provision of operational jobs and consistency with the strategic direction for waste management in NSW.

The Department is satisfied that the modification should be approved, subject to conditions.

10. RECOMMENDATION

In accordance with section 96(1A) of the *Environmental Planning and Assessment Act 1979*, it is recommended that the Director, Industry Assessments, as delegate of the Minister for Planning:

- consider the findings and recommendations of this report;
- approve the modification application for the Erskine Park Waste and Resource Management Facility (SSD 7075 MOD 1); and
- sign the attached notice of modification (**Attachment A**).

Recommended by:



25.08.17

Kate Masters
A/Principal Planning Officer
Industry Assessments

Recommended by:



Nicholas Hall
A/Team Leader
Industry Assessments

DECISION

Approved by:



Kelly McNicol 25.08.17.

Kelly McNicol
A/Director
Industry Assessments
as delegate of the Minister for Planning

APPENDIX B – STATEMENT OF ENVIRONMENTAL EFFECTS

See link: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8611

APPENDIX C – SUBMISSIONS

See link: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8611