

ASSESSMENT REPORT

Section 96(1A) Modification Erskine Park Waste and Resource Management Facility (SSD 7075 MOD 2)

1. INTRODUCTION

This report assesses a modification application by Cleanaway Waste Management Limited (the Applicant) to modify the concept proposal and Stage 1 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 changes to the site levels and layout of the WRMF. 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 described as Lot 1 in DP 1140063. The WRMF has not yet been constructed, however site preparation works have commenced. 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 associated infrastructure. The landfill is expected to close within the next few years.

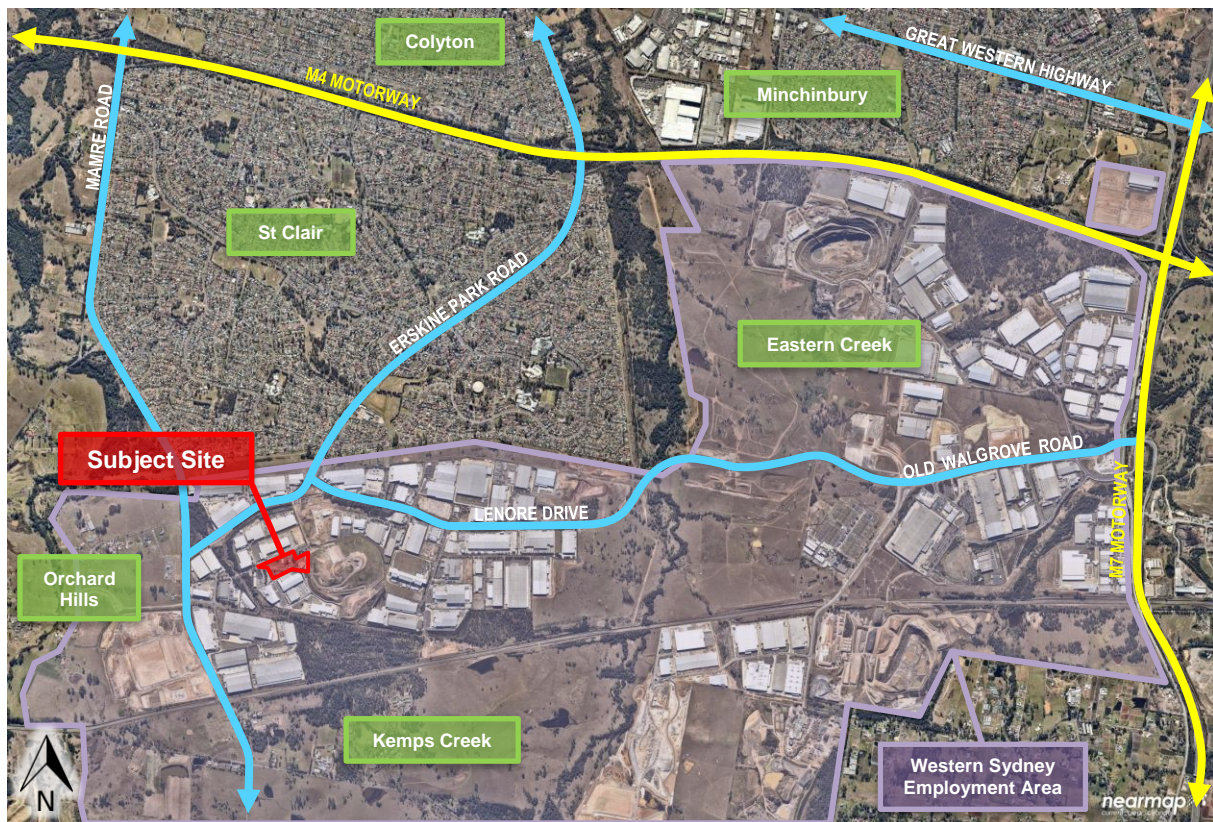


Figure 1: Site Location

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 area is located at St Clair approximately 740 metres (m) to the north of the site. A childcare facility is located on Mamre Road approximately 670 m to the west of the site.

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

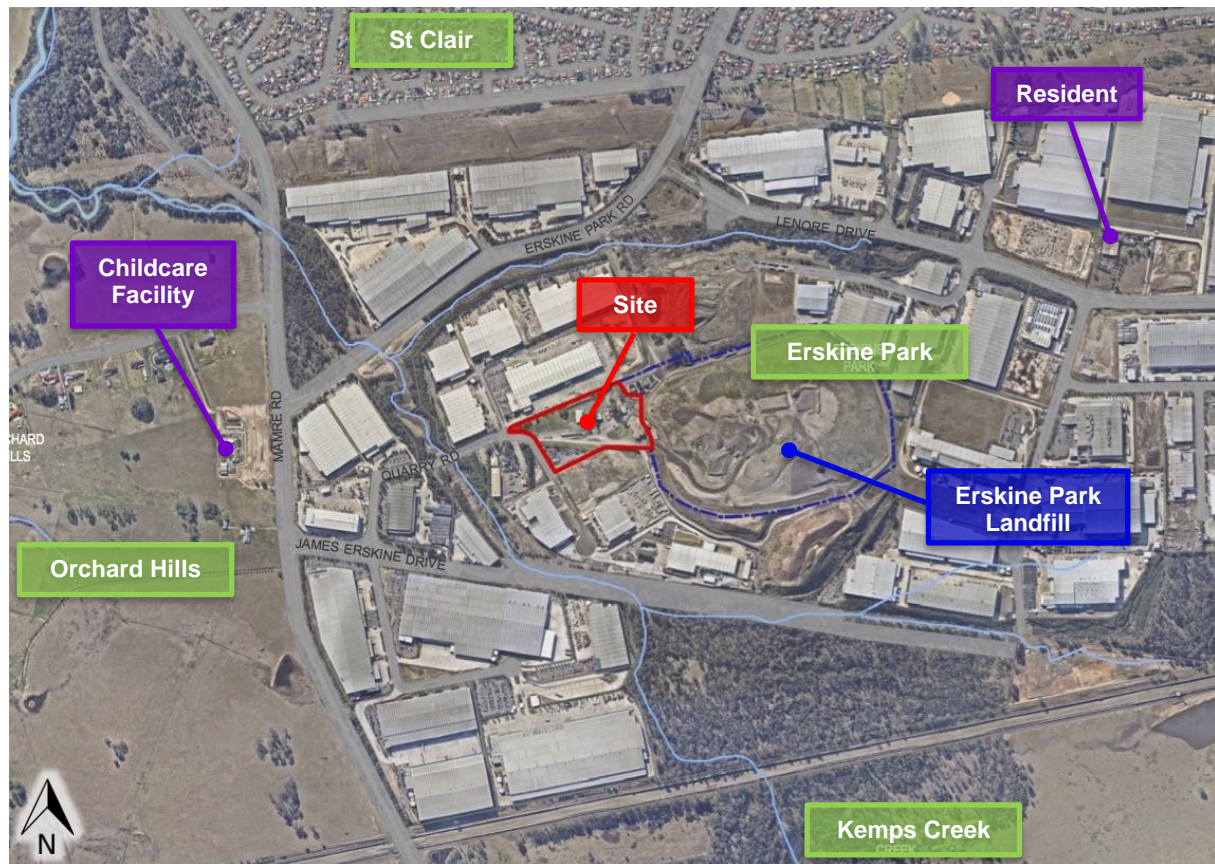


Figure 2: The Site and Surrounds

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 Waste Transfer Station (WTS) (Stage 1) capable of processing up to 300,000 tonnes per annum (tpa) of commercial and industrial waste (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
- 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 tpa of both C&I and MSW. The WTS would be constructed first, followed by the RRF (referred to as Stage 2) which will be subject to a separate 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.

On 25 August 2017, the development was modified (SSD 7075 MOD 1) under section 96(1A) of the EP&A Act to facilitate the following:

- changes to the site levels and a reduction in 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
- reduction in the capacity of the stormwater detention basin.

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

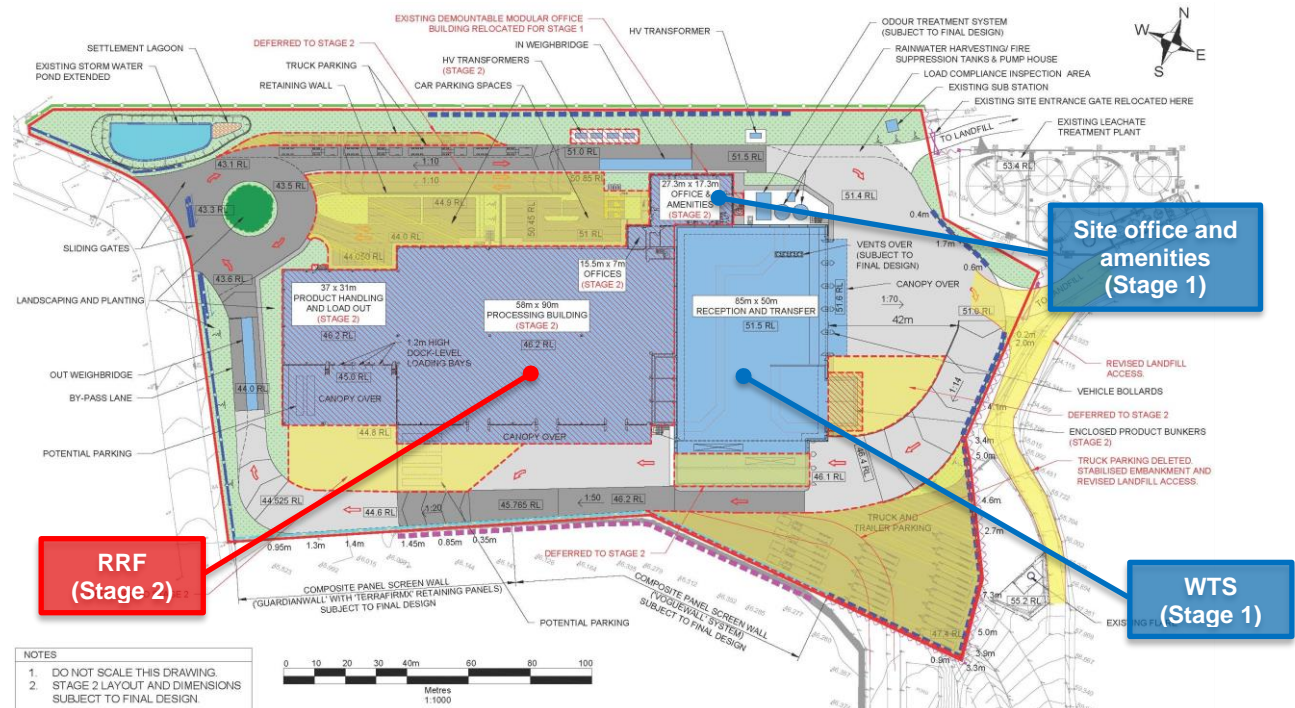


Figure 3: Approved Concept Proposal Stages 1 and 2

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). Stage 1 includes physical works such as the demolition of existing structures and the construction and operation of the WTS.

Following further design of the development, the Applicant has proposed the following:

- an increase in the overall site levels
- relocation of the access ramp adjacent to the wastewater treatment plant
- relocation and redesign of the car park.

The modification is described in full in the Statement of Environmental Effects (SEE) included in **Appendix B**, is summarised in **Table 1** and **Table 2** 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. All Stage 2 works would be subject to a future DA.

Table 1: Summary of Proposed Modification

| Aspect | Approved (as modified by MOD 1) | Proposed Modification (MOD 2) |
|-------------|---|---|
| Car parking | <ul style="list-style-type: none"> • Stage 1 car park with 20 spaces located within the Stage 2 RRF development area. • Stage 2 car park with 55 spaces in a tiered layout and located adjacent to the office building. | <ul style="list-style-type: none"> • Stage 1 car park with 21 spaces located adjacent to the office building. • Stage 2 car park with 56 spaces in a non-tiered layout and located adjacent to the office building. |

| Aspect | Approved (as modified by MOD 1) | Proposed Modification (MOD 2) |
|--------------|--|--|
| Access ramps | <ul style="list-style-type: none"> The Stage 2 car park would replace the Stage 1 car park. Two access ramps to the adjacent landfill, consisting of one inbound ramp and one outbound ramp. | <ul style="list-style-type: none"> The Stage 2 car park would be an expansion of the Stage 1 car park. Re-inclusion of the leachate treatment plant access ramp to Stage 1, for a total of three ramps on the northern half of the site (landfill inbound, landfill outbound and leachate treatment plant access). Minor reconfiguration of landfill access ramp to achieve a gradient suitable for heavy trucks. |
| Earthworks | <ul style="list-style-type: none"> An overall reduction in the extent of earthworks required from the original consent SSD 7075. | <ul style="list-style-type: none"> An increase in the overall site levels to accommodate heavy vehicle movements and meet applicable Australian Standard. Site levels fall within original SSD and MOD 1 levels (see Table 2). |
| Stormwater | <ul style="list-style-type: none"> Detention basin with a capacity of 710 m³. Rainwater harvesting tank capacity of 159 ML. | <ul style="list-style-type: none"> No change in the detention basin capacity or rainwater harvest tank capacity. |

Table 2: Comparison of approved and proposed site levels

| Item | Location | SSD 7075 | SSD 7075 MOD 1 | SSD 7075 MOD 2 |
|------|----------------------------------|----------|----------------|----------------|
| 1 | Start of landfill access ramp | 51.0 RL | 49.6 RL | 51.1 RL |
| 2 | Transfer station floor | 51.5 RL | 49.6 RL | 51.1 RL |
| 3 | Transfer station building height | 65.23 RL | 63.51 RL | 65.01 RL |
| 4 | Start of northern access road | 43.5 RL | 43.5 RL | 44.0 RL |
| 5 | Inbound weighbridge | 51.0 RL | 49.3 RL | 49.5 RL |
| 6 | Car park (Stage 1) | 51.0 RL | 48.5 RL | 50.3 RL |

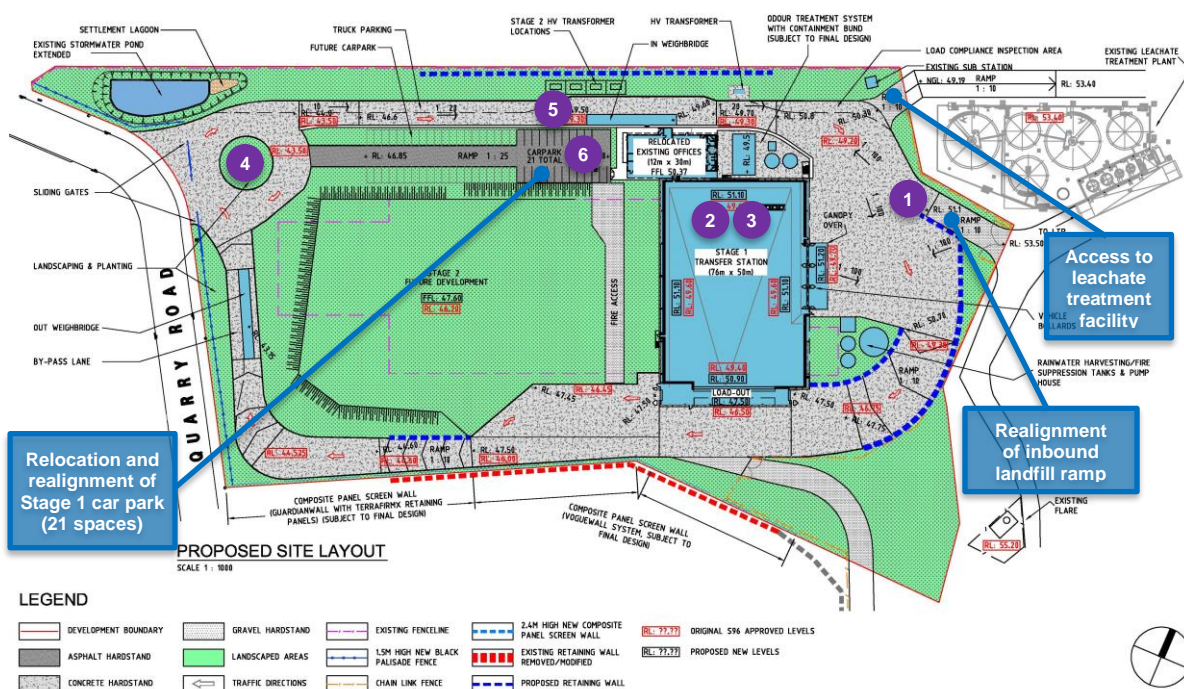


Figure 4: Proposed Stage 1 DA

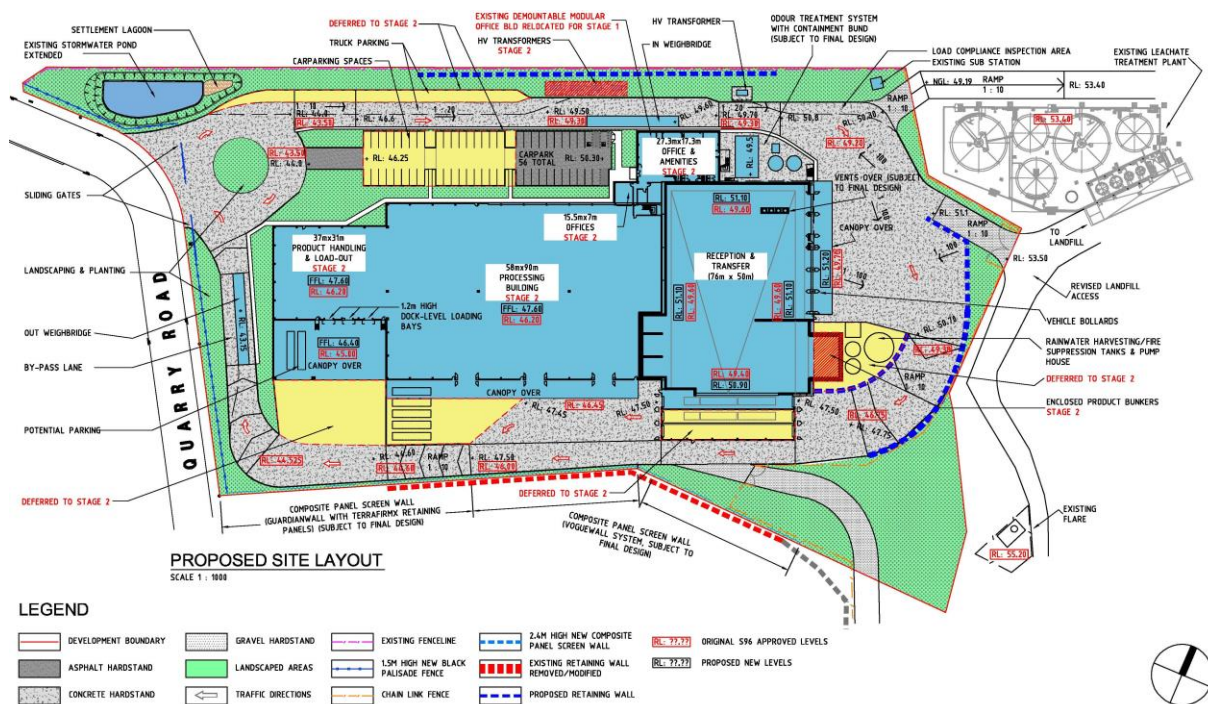


Figure 5: Proposed Concept DA

5. Applicant's Justification for the Proposed Modification

Site preparation works for the development are underway, and the Applicant has appointed a contractor to commence construction. Upon review of the design, issues relating to the interfacing between the development site, the main access onto Quarry Road and the adjacent landfill were identified. The approved site levels would result in slopes unsuitable for heavy vehicles to safely manoeuvre and would not meet the relevant Australian Standards. As such, the Applicant has lodged a modification application to amend the site levels and layout.

The Applicant has indicated that the modification application would not result in any changes in production capacity, the amount of hardstand, the capacity of the detention pond or to the overall function of the site as a WRMF. The proposed modification is required to address operational issues which were identified during the detailed design of the development.

6. STATUTORY CONTEXT

6.1 Consent Authority

The Minister for Planning is the consent authority for the application. Under the Minister's delegation of 11 October 2017, the 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.

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
- 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 23 January 2018. The application was referred to Penrith City Council (Council), the Environment Protection Authority (EPA), Transport for NSW (TfNSW), the Department of Primary Industries (DPI) and adjacent landowners/occupiers for comment.

During the notification period, a total of four submissions were received from public authorities. No submissions were received from the public.

Council, the EPA, DPI and TfNSW did not object 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:

- SEE provided to support the proposed modification (see **Appendix B**)
- 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
- requirements of the EP&A Act, including the objects of the EP&A Act.

As the modification is primarily administrative and does not seek to change the processing capacity, the total amount of hardstand or the capacity of the detention pond, the original studies assessed as part of the original SSD consent and modification 1 are considered to remain valid for this modification.

The Department's assessment of the modification application is provided in **Table 3**.

Table 3: Assessment of Issues

| Issue | Assessment | Recommendation |
|---------------------------------|---|--|
| Site Maneuverability and Access | <ul style="list-style-type: none"> • The modification application seeks to amend the levels across the site and reconfigure the landfill access. • As currently approved, the site levels would result in ramp gradients across the site unsuitable for heavy vehicles to safely maneuver. Further, the landfill access ramp would have to be 40 m long to meet the relevant Australian Standard, due to the level difference between the site and the adjacent landfill. The resulting ramp would extend into the internal site roadway and cut off WMRF traffic. • In support of the modification application, the Applicant included updated swept path diagrams to demonstrate site maneuverability and access. • Council raised no concerns with the proposed modification. • The Department considers that the proposed site levels fall within the levels approved for the original SSD consent and MOD 1. In addition, the relocation of the landfill access ramp is minor in nature and would not impede the internal maneuverability of the site. • The Department's assessment concludes the changes to the site levels and the relocation of the access to the adjacent landfill would improve site manoeuvrability and 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 inclusion of the amended site plans. | Amend the conditions of consent to include the revised site plans. |

| Issue | Assessment | Recommendation |
|---------------|---|---|
| Surface Water | <ul style="list-style-type: none"> The development includes an on-site detention (OSD) basin in the western corner of the site with a volume of 710 m³. The modification application includes the relocation of the Stage 1 car park and changes to the hardstand, which has the potential to impact the amount of surface water runoff and the resulting OSD basin requirements. The Applicant advised the OSD basin was designed for the overall completed development (ie. Stages 1 and 2) and the total hardstand for the completed development would not change. Council and DPI raised no issue with the modification application. The Department considers the OSD basin has sufficient capacity and 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 and MOD 1. The Department considers the existing conditions adequately address surface water. | No additional conditions are recommended. |
| Car Parking | <ul style="list-style-type: none"> The modification application seeks to amend the provision, layout and location of the Stage 1 car park, resulting in: <ul style="list-style-type: none"> a Stage 1 car park with 21 spaces adjacent to the office a Stage 2 car park with 56 spaces as an expansion onto the Stage 1 car park. The Applicant advised that the amended site levels would remove the need for a retaining wall within the car park. The original Stage 1 car park location would have also required a 70 m ramp from the car park to the offices, which is undesirable for handicap access. The Department considers that the revised layout of the Stage 2 car park is simpler in design and provides better maneuverability for cars. It would require less overall construction as it is an expansion onto the Stage 1 car park. 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). The Department's assessment concludes the proposed modification to the Stage 1 and 2 car parking would not result in any impacts beyond what has already been assessed as part of the original application and MOD 1. The Department considers the existing conditions of consent adequately address on-site parking, subject to minor amendments to facilitate the proposed modifications. | Amend the conditions of consent to facilitate the proposed parking modifications. |
| Visual | <ul style="list-style-type: none"> The increase in overall site levels would inherently increase the building heights, having the potential to increase the visual impact of the development. The Department notes that the visual impact of the development was assessed as part of the original SSD consent and for MOD 1, both of which concluded that the site is located within an established industrial precinct and is largely screened by surrounding industrial developments. The site levels proposed in the current modification fall within these two scenarios. The Department's assessment concludes the proposed modification would not result in any visual impacts beyond what has already been assessed. The Department considers the existing conditions of consent adequately address the visual impact. | No additional conditions are recommended. |

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:

- it would result in minimal environmental impacts beyond the approved facility
- the production capacity would not increase as a result of the modification
- 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

It is recommended that the Director, Industry Assessments, as delegate of the Minister for Planning:

- Consider the findings and recommendations of this report
- Determine that the application SSD 7075 MOD 2 falls within the scope of section 96(1A) of the EP&A Act
- Modify the consent SSD 7075
- Sign the attached approval of the modification (**Attachment A**).

Recommended by:

Bianca Thornton
Planning Officer
Industry Assessments

Recommended by:



Kelly McNicol
Team Leader
Industry Assessments

DECISION

The recommendation is: Approved / Not approved by:



Chris Ritchie
Director
Industry Assessments
as delegate of the Minister for Planning

26/2/18.

APPENDIX A – NOTICE OF MODIFICATION

APPENDIX B – STATEMENT OF ENVIRONMENTAL EFFECTS

See link: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9043

APPENDIX C – SUBMISSIONS

See link: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9043