New South Wales Government
Independent Planning Commission

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Moss Vale Plastics Recycling Facility SSD-9409987

Statement of Reasons for Decision

Andrew Mills (Chair)
Janett Milligan
Clare Sykes

24 January 2025

Executive Summary

The NSW Independent Planning Commission has determined to refuse consent to the Moss Vale Plastics Recycling Facility SSD-9409987 (the Application). The Application was made by Plasrefine Recycling Pty Ltd (the Applicant) for the construction and operation of a plastics recycling facility with the capacity to accept up to 120,000 tonnes per annum of mixed plastic such as bottles and containers for reprocessing into a range of recycled plastic products including plastic flakes, pellets, powder and new products (the Project).

The Commission found that although plastic recycling in NSW is in the public interest and that the facility would support employment and economic activity, those benefits of the Project were – in this particular case – outweighed by the negative impacts of locating a plastics recycling facility of this scale on the specific proposed site at the interface with residential zones. Consistent with the planning principle for development at the zone interface the Commission took into account existing development and development likely to occur in different adjoining zones, finding that conducting plastic recycling at this site would unreasonably conflict with other land uses in the area, including:

- existing uses within the E4 General Industrial zone (E4 zone); and
- existing residential uses and potential for future residential development in the adjoining C4 Environmental Living zone (C4 zone), including at the western end of Braddon Road and the RU2 Rural Landscape zone (RU2 zone), which also has potential for future residential development.

The Commission found that the amenity of these residential and other uses would be significantly impacted by the Project, due to:

- **noise and vibration** during the 15 month construction phase and the ongoing 24 hour, 7 day a week operations of the waste and resource management facility, which is incompatible with established residential land uses in the C4 zone and imposes constraints on existing and future residential land uses and the adjacent Australian BioResources facility;
- **traffic and transport** associated with construction and ongoing operations, with approximately 40 heavy vehicle movements and up to 60 light vehicle movements per day during construction, up to 100 heavy vehicle movements (Monday to Friday, 7am – 6pm) and 280 light vehicle movements per day during operations, which would exceed an acceptable volume of traffic for Braddon Road and create local traffic conflicts; and
- **visual impacts** on the locality related to the bulk, scale and form of the building, particularly to the south of the site. These visual impacts are considered to be excessive for a development at the interface with the C4 zone and RU2 zone and unable to be adequately mitigated by landscaping.

Further, although the Commission was generally satisfied with the preventative measures proposed by the Applicant for fire events, these measures would not exclude the possibility of a fire outbreak. If a fire at the proposed facility did occur, it would pose an unacceptable risk to the critical work carried out by Australian BioResources in supporting medical research throughout Australia.

Other key issues addressed in the assessment of the Application and raised in submissions could have been appropriately managed with conditions recommended by the Department of Planning, Housing and Infrastructure. As such, these issues were not reasons for the refusal of the Application.

The Commission has also considered the potential social impacts of the development associated with the loss of local amenity from the impacts listed above and uncertainty about the health and environmental impacts of microplastics. The Commission does not agree that all of these social impacts are capable of being sufficiently managed. Given, however, the Commission's findings regarding the suitability of the site were sufficient to outweigh the predicted benefits of the Application proceeding, the Commission did not make conclusive findings regarding the social impacts of the Project.

In reaching its determination, the Commission Panel, comprised of Andrew Mills (Chair), Janett Milligan and Clare Sykes, met with key stakeholders including the Department of Planning, Housing and Infrastructure, the Applicant, Wingecarribee Shire Council, as well as Water NSW, Health NSW and the EPA, conducted a site inspection and locality tour, held a public meeting over three days and received written submissions on the Application from 2,844 members of the public.

Contents

Defined Terms

ABBREVIATION	DEFINITION
ABR	Garvan Institute of Medical Research's Australian BioResources facility
AEP	Annual Exceedance Probability
Applicant	Plasrefine Recycling Pty Ltd
Application	State Significant Development Application SSD-9409987
Approved Methods	Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (EPA, 2016)
AQIA	Air Quality Impact Assessment
AR para	Paragraph of the Department's Assessment Report
BC Act	*Biodiversity Conservation Act 2016*
BCS	Biodiversity Conservation and Science Group of the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW)
CCC	Community Consultative Committee
CNVMP	Construction Noise and Vibration Management Plan
Commission	Independent Planning Commission of NSW
Council	Wingecarribee Shire Council
DCCEEW	NSW Department of Climate Change, Energy, the Environment and Water
DCP	Development Control Plan
Department	Department of Planning, Housing and Infrastructure
Department's AR	Department's Assessment Report, dated October 2024
EIS	Environmental Impact Statement
EP&A Act	*Environmental Planning and Assessment Act 1979*
EPA	NSW Environment Protection Authority
EPBC Act	*Environmental Protection and Biodiversity Conservation Act 1999* (Cth)
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
LEC	NSW Land and Environment Court
LGA	Local Government Area
Mandatory Considerations	Relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act
Material	The material set out in **Section 3.1**
MVEC	Moss Vale Enterprise Corridor
Minister	Minister for Planning and Public Spaces
NCA	Noise Catchment Area
NIA	Noise Impact Assessment
NPfI	NSW Noise Policy for Industry
NSW	New South Wales
OTMP	Operational Traffic Management Plan
PMF	Probable Maximum Flood
PNTL	Project Noise Trigger Level
Project	Moss Vale Plastics Recycling Facility
Regulations	Environmental Planning and Assessment Regulation 2021
RFS	NSW Rural Fire Service
RtS	Response to Submissions
SDWC	Sydney Drinking Water Catchment

SEPP Biodiversity and Conservation	State Environmental Planning Policy (Biodiversity and Conservation) 2021
SEPP Planning Systems	State Environmental Planning Policy (Planning Systems) 2021
SEPP Resilience and Hazards	State Environmental Planning Policy (Resilience and Hazards) 2021
SEPP Resources and Energy	State Environmental Planning Policy (Resources and Energy) 2021
SEPP SRD	Former State Environmental Planning Policy (State and Regional Development) 2011
SEPP Transport and Infrastructure	State Environmental Planning Policy (Transport and Infrastructure) 2021
SHIP	Southern Highlands Innovation Park
SIA	Social Impact Assessment
SIA Guideline	Department's Social Impact Assessment Guideline
SIMP	Social Impact Management Plan
Site	As described in **Section 2.1**
SSD	State Significant Development
TNMP	Traffic Noise Management Plan
VOC	Volatile Organic Compounds
WWTP	Wastewater treatment plant
WLEP	*Wingecarribee Local Environmental Plan 2010*

1. Introduction

1. On 10 October 2024, the NSW Department of Planning, Housing and Infrastructure (**Department**) referred the State significant development (**SSD**) application SSD-9409987 (**Application**) from Plasrefine Recycling Pty Ltd (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval for the Moss Vale Plastics Recycling Facility (the **Project**) located in the Wingecarribee Local Government Area (**LGA**) under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
3. In accordance with section 4.5(a) of the EP&A Act and section 2.7 of the *State Environmental Planning Policy (Planning Systems) 2021* (**SEPP Planning Systems**), the Commission is the consent authority as during the Department's assessment, Wingecarribee Shire Council (**Council**) objected to the proposal and more than 50 unique public submissions were made by way of objection.
4. Andrew Mills, Chair of the Commission, determined that himself as Chair, Clare Sykes and Janett Milligan would constitute the Commission for the purpose of exercising its functions with respect to the Application.
5. The Department concluded in its Assessment Report (**AR**) that the Project's impacts can be mitigated and/or managed to ensure an acceptable level of environmental performance, subject to their recommended conditions of consent.

2. The Application

2.1 Site and locality

6. The Project site (the **Site**) is defined as being within the Project boundary illustrated in **Figure 1** below. The Site is located approximately 2.8 kilometres (km) northwest of the Moss Vale town centre and approximately 140 km southwest of Sydney (AR para 3).
7. The Site is 7.7 hectares (ha) in size, is located within the E4 General Industrial zone (E4 zone) under *Wingecarribee Local Environmental Plan 2010* (**WLEP**) and is described as part Lot 11 DP 1084421 (AR, para 3).
8. The Site is currently an undeveloped paddock which has previously been used for agricultural purposes and contains exotic pasture with some indigenous grass species (AR para 4). The Site also contains four ponds, including a large farm dam in the northeast, with two watercourses feeding these ponds located along both the western and eastern boundaries of the Site (AR, para 5).
9. Surrounding the Site is a mix of industrial zoned land to the north, east and west and environmental living and other residential land to the south, as identified in **Figure 1** (AR, para 9).
10. Along the southern boundary is Braddon Road which has recently been constructed as a residential access road under a local council development consent (AR, para 7). On the southern side of Braddon Road is the remaining part of Lot 11 DP 1084421 (which does not form part of the development) which is currently undeveloped and zoned C4 Environmental Living under WLEP (AR para 6). Further south and southeast of the Site are rural residences with the closest existing residence approximately 220 m to the southeast along Beaconsfield Road (AR para 13).

11. Directly east of the Site, within the E4 zone, is the Garvan Institute of Medical Research's Australian Bioresources (**ABR**) facility which is used to breed mice for medical research (AR, para 12).
12. Within the E4 zone, the land directly north and west of the Site is primarily vacant undeveloped paddocks (AR, para 9). Along the western boundary is an unformed council road reserve approximately 1,050 m long that runs from Braddon Road towards Douglas Road (AR para 8). To the northeast is Dux Hot Water and Fast Skips Recycling, with Omya Australia, Moss Vale Recycled Timber Building Centre, the Fireplace Studio and AL Coating located further to the northeast and east (AR, para 11).
13. Surrounding roads include Douglas Road and Collins Road to the north, Lackey Road to the east and Braddon Road and Beaconsfield Road to the south. To the north of the Site is a level crossing of the Berrima Branch Line located where Collins Road joins Douglas Road (AR, para 15).

Figure 1 - Local Context Map (Source: AR, Figure 3)

2.2 The Project

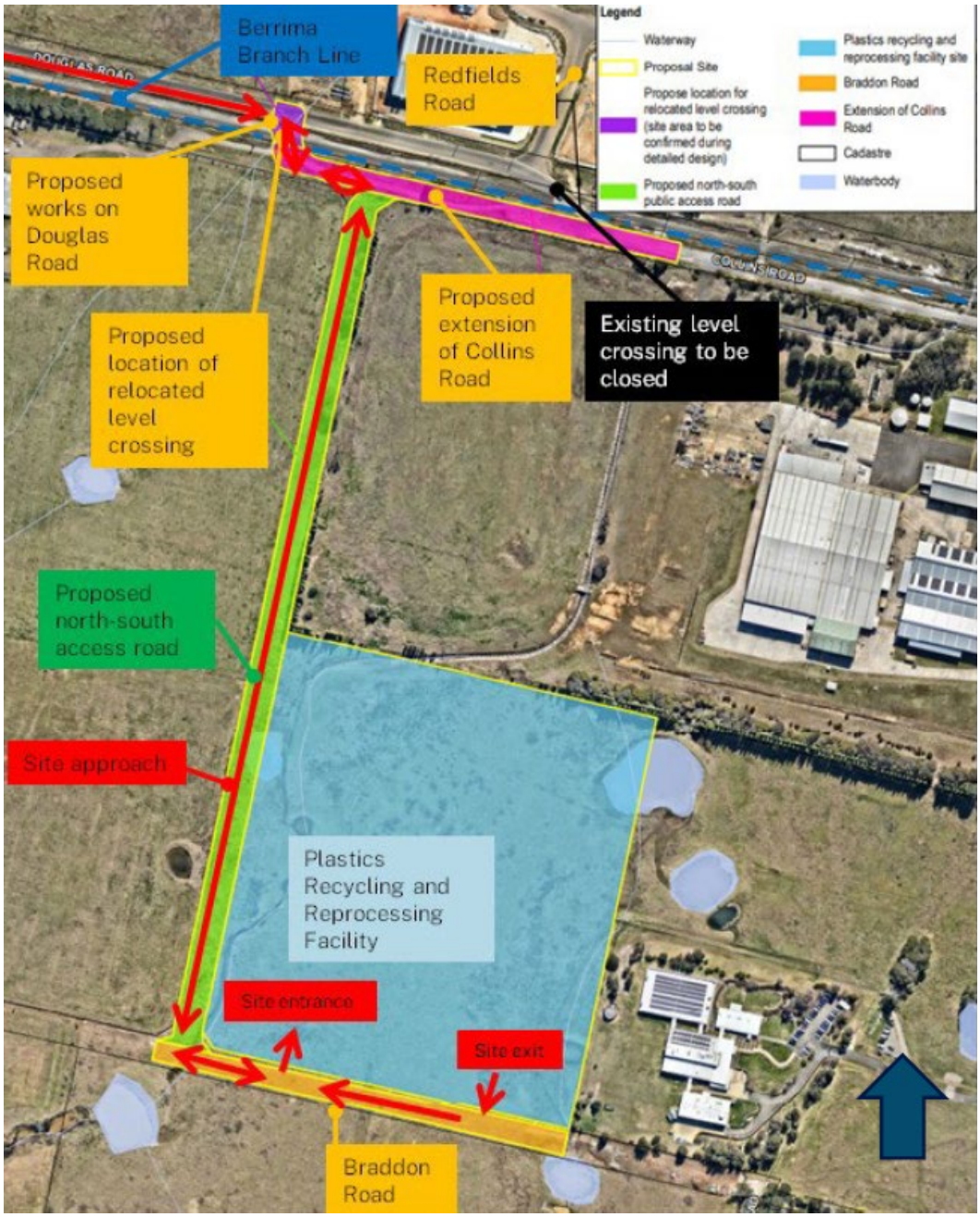
14. The Applicant is seeking approval for the construction and operation of a plastics recycling facility with the capacity to accept up to 120,000 tonnes of mixed plastic per annum, such as bottles and containers. This plastic is to be reprocessed into plastic flakes, pellets, powder and new recycled plastic products. The Project would have a development footprint of 6 ha with a building footprint of 3.24 ha (AR, Table 1).

15. The development would comprise of Building 1 (sorting and recycling), Building 2 (reprocessing), a multi-use building attached to Building 2 (office, workshop, laboratory), a site office building, a water treatment building and ancillary structures (AR, Table 1). The Project also includes the construction of a new 'north-south' access road approximately 1,050 m long as demonstrated in **Figure 2** below (AR, Table 1).

16. The Project proposes to receive 100,000 tonnes per annum (tpa) of mixed plastic such as bottles and containers and 20,000 tpa of other plastics and would store up to 20,000 t of unprocessed plastic at any one time (AR, Table 1).

17. Further detail about the main aspects of the Project is set out in Table 1 of the Department's AR.

Figure 2 - Proposed works and vehicular access points (Source: AR, Figure 6)



3. The Commission's consideration

3.1 Material considered by the Commission

18. In this determination, the Commission has considered the following material (**Material**):

- the Planning Secretary's Environmental Assessment Requirements dated 15 October 2020;
- the following information provided by the Applicant:
  - the Environmental Impact Statement (**EIS**), dated January 2022 and its accompanying appendices;
  - the Response to Submissions Report (**RtS**), dated 10 March 2023 and its accompanying appendices;
  - the Amendment Report dated September 2023 and its accompanying appendices;
  - the Amendment Report RtS Report dated February 2024 and its accompanying appendices;
  - additional information dated 23 April 2024;
- all public submissions on the EIS and Amendment Report made to the Department during public exhibition;
- all Government Agency advice to the Department;
- the Department's AR, dated October 2024;
- the Department's recommended conditions of consent, dated October 2024;
- comments and presentation material from meetings with the Department, Applicant, Wingecarribee Shire Council, WaterNSW, EPA and NSW Health as referenced in **Table 4**;
- the Applicant's submissions and correspondence to the Commission, dated 30 October 2024, 15 November 2024, 25 November 2024 and 19 December 2024;
- the Department's correspondence to the Commission, dated 1 November 2024, 6 December 2024 and 14 January 2025;
- all written comments made to the Commission and material presented at the Public Meeting; and
- all written comments received by the Commission.

3.2 Strategic context

3.2.1 NSW strategic planning framework

19. The Commission has considered the strategic planning framework, policies and guidelines as they apply to the Site and Project. The Commission finds that the Project is consistent with the NSW Government's strategic planning framework, policies and guidelines (see **Table 1** below).

Table 1 - Strategic planning framework

Strategic Context	Discussion
South East Tablelands Regional Plan 2036	The South East Tablelands Regional Plan 2036 (the Plan) has four main goals to achieve "*a borderless region in Australia's most geographically diverse natural environment with the nation's capital at its heart*". The goals are - a connected and prosperous economy, a diverse environment interconnected by biodiversity corridors, healthy and connected communities, and environmentally sustainable housing choices. The Commission finds the Project to be generally consistent with these goals (as relevant), and the applicable directions of the Plan to achieve the goals.
Draft South East Tablelands Regional Plan 2041	The draft Plan contains 25 objectives under 5 themes to guide planning and land-use decisions in unlocking the region's potential over the next two decades. Strategies of the draft Plan aim to diversify the economy, create thriving communities and plan for a sustainable future. The Project is generally consistent with the draft Plan's objectives as relevant to the Project.
Wingecarribee Local Strategic Planning Statement	The Wingecarribee Local Strategic Planning Statement (LSPS) sets out the 20-year land use vision for the LGA and provides a long-term planning framework to meet the economic, housing, social and environmental needs of the Wingecarribee community. The Commission considers the Project to be consistent with relevant planning priorities of the LSPS, in particular Planning Priority 3.1: Our Shire supports businesses and attracts people to work, live and visit.

3.2.2 Waste and resources context

20. The Commission has considered the Project in the context of National and State waste and resource management plans and policies. The Commission finds the Project to be consistent with these plans and policies (see **Table 2** below).

Table 2 - Waste and resources context

Strategic Context	Discussion
National Waste Policy: Less Waste, More Resources 2018	The National Waste Policy provides a national framework for waste and resource recovery in Australia. The Policy outlines five principles for waste management that will enable Australia to transition to a circular economy. The principles are - avoid waste, improve resource recovery, increase use of recycled material and build demand and markets for recycled products, and better manage material flows to benefit human health, the environment and the economy.
National Waste Policy Action Plan 2019	The National Waste Policy Action Plan (the Action Plan) sets out targets and actions to implement the National Waste Policy 2018 (page 1). National targets set by the Action Plan are (page 2): • ban the export of waste plastic, paper, glass and tyres, commencing in the second half of 2020 • reduce total waste generated in Australia by 10% per person by 2030 • 80% average resource recovery rate from all waste streams following the waste hierarchy by 2030 • significantly increase the use of recycled content by governments and industry

	• phase out problematic and unnecessary plastics by 2025 • halve the amount of organic waste sent to landfill by 2030 • make comprehensive, economy-wide and timely data publicly available to support better consumer, investment and policy decisions.
NSW Waste and Sustainable Materials Strategy 2041: Stage 1 – 2021-2027	The Strategy focuses on the environmental benefits and economic opportunities in how NSW manages waste and sets out actions to be taken to achieve the following targets: • reduce total waste generated by 10% per person by 2030 • have an 80% average recovery rate from all waste streams by 2030 • significantly increase the use of recycled content by governments and industry • phase out problematic and unnecessary plastics by 2025 • halve the amount of organic waste sent to landfill by 2030.
NSW Plastics Action Plan	The NSW Plastics Action Plan sets out actions to achieve long-term plastic management outcomes. Under the 'NSW Waste and Sustainable Materials Strategy: Stage 1 2021–2027', NSW has adopted several targets. The actions outlined in the NSW Plastics Action Plan aim to assist in meeting these targets, including tripling the plastics recycling rate by 2030 (page 4).
NSW Circular Economy Statement: Too Good to Waste	This NSW Environment Protection Authority (**EPA**) document outlines principles for transitioning NSW towards a circular economy, including valuing resource productivity, maintaining the value of products and materials, and creating new circular economy jobs (page 3).
NSW Waste and Sustainable Materials Strategy: A guide to future infrastructure needs	The NSW Government has prepared this guide to help strategically plan for the State's waste and circular economy infrastructure (page 1). The guide states that a mix of facilities are needed to handle increasing volumes of plastics across NSW, and that this will include commercially viable secondary processing (flaking and pelletising) (page 7). The guide states that the minimum new infrastructure to address export ban requirements (under business as usual with no major policy shift) (page 7) is: • 2 x small secondary processing plants (8,000 tonnes per annum (tpa) per site) • 2 x medium secondary processing plants (16,000 tpa per site) To meet the NSW Plastics Action Plan target of tripling the plastics recycling rate, the following additional infrastructure is required (page 7): • 4 x small (8,000 tpa per site) secondary processing facilities • 2 x medium (16,000 tpa per site) secondary processing facilities • 3 x large (32,000 tpa per site) secondary processing facilities

3.3 Statutory context

3.3.1 Permissibility

21. The Project is characterised as a 'waste or resource management facility' which is permitted with development consent within the E4 zone pursuant to the WLEP. Section 2.153(1) of *State Environmental Planning Policy (Transport and Infrastructure) 2021* (**SEPP Transport and Infrastructure**) also permits waste or resource management facilities with development consent within the E4 zone.

3.3.2 State Significant Development

22. At the time of lodgement of the Application with the Department, the Project was SSD pursuant to section 8(1) and item 23 of Schedule 1 of the former *State Environmental Planning Policy (State and Regional Development) 2011* (**SEPP SRD**). As part of the NSW Government's planning reforms in 2021, the SEPP SRD was incorporated into the *State Environmental Planning Policy (Planning Systems) 2021* (**SEPP Planning Systems**) which commenced on 1 March 2022.

23. The Application (as amended, see **Section 3.3.3** below) is SSD as it satisfies criteria pursuant to section 2.6(1) of the SEPP Planning Systems, being development for the purpose of resource recovery or recycling facility (a type of 'waste or resource management facility'), that handles more than 100,000 tonnes of waste per year.

3.3.3 Amended Application

24. As the delegate of the Commission, the Department agreed on 29 September 2023 to the Applicant amending the Application as follows:

- change in haulage route and site access road;
- reduced water demand during operations;
- reduced maximum building height; and
- revised stormwater strategy and layout.

25. The amendments to the Project resulted from the Applicant's consideration of feedback received from government agencies and the community during public exhibition of the original Application. The Amended Application was publicly exhibited from 5 October 2023 to 1 November 2023.

3.4 Mandatory considerations

26. In determining this Application, the Commission is required by section 4.15(1) of the EP&A Act to take into consideration such of the listed matters as are of relevance to the development which is the subject of the Application (**Mandatory Considerations**). The mandatory considerations are not an exhaustive statement of the matters the Commission is permitted to consider in determining the Application. To the extent that any of the Material does not fall within the mandatory considerations, the Commission has considered that Material where it is permitted to do so, having regard to the subject matter, scope and purpose of the EP&A Act.

Table 3 - Mandatory considerations

Mandatory considerations	Commission's comments
Relevant EPIs	The key EPIs (in their present, consolidated form) include: • SEPP Planning Systems; • State Environmental Planning Policy (Resources and Energy) 2021 (**SEPP Resources and Energy**); • State Environmental Planning Policy (Transport and Infrastructure) 2021 (**SEPP Transport and Infrastructure**); • State Environmental Planning Policy (Resilience and Hazards) 2021 (**SEPP Resilience and Hazards**); • State Environmental Planning Policy (Biodiversity and Conservation) 2021 (**SEPP Biodiversity and Conservation**); and

	• Wingecarribee Local Environmental Plan 2010. The Commission agrees with the Department's assessment of EPIs set out in the AR.
Relevant DCPs	Section 2.10 of the SEPP Planning Systems states that development control plans do not apply to SSD. The Commission does not consider any development control plans to be relevant to the determination of the Application.
Any planning agreement or draft planning agreement	No planning agreements are applicable to the Project.
Likely Impacts of the Development	The likely impacts of the Application have been considered in **Section 5** of this Statement of Reasons.
Suitability of the Site for Development	The suitability of the Site for the development is considered in **Section 5** of this Statement of Reasons.
The Public Interest	Relevant matters relating to the public interest are considered in **Section 5** of this Statement of Reasons.

3.5 Additional considerations

27. In determining the Application, the Commission has also considered:

- NSW Noise Policy for Industry **(NPfI**);
- NSW Biodiversity Offsets Policy for Major Projects;
- Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (EPA, 2016) (**Approved Methods**);
- Social Impact Assessment Guideline for State Significant Projects (NSW Government, 2021) (**SIA Guideline**).

3.6 The Commission's meetings

28. As part of the determination process, the Commission met with various persons as set out in **Table 4**. All meeting and site inspection notes were made available on the Commission's website.

Table 4 - Commission's meetings

Meeting	Date	Transcript/notes available on
Council	21 October 2024	25 October 2024
Locality tour, neighbouring site visits, and site inspection	21 October 2024	31 October 2024
Applicant	22 October 2024	25 October 2024
Department	22 October 2024	25 October 2024
Public Meeting Day 1	28 October 2024	31 October 2024
Public Meeting Day 2	1 November 2024	7 November 2024
Public Meeting Day 3	12 November 2024	15 November 2024

WaterNSW, EPA, NSW Health, and Department	3 December 2024	4 December 2024

4. Community participation

4.1 Attendance at the site inspection

29. On 21 October 2024, the Commission conducted an inspection of the Site. The site inspection was attended by the Panel, staff from the Office of the Commission, the Applicant and its representatives, and representatives from Council as observers.

4.2 Public meeting

30. The Commission conducted a public meeting over three days. In total, 124 speakers presented to the Commission during the public meeting, not including representatives from the Applicant or the Department.

31. Verbal submissions made at the public meeting have been considered by the Commission as set out in the Key Issues section of this report (see **Section 5** below).

4.3 Public submissions

32. The Commission has considered the written submissions made to it as set out in the Key Issues section of this report (see **Section 5** below). As part of the Commission's consideration of the Project, any person was able to make written submissions to the Commission until 5pm, Monday 25 November 2024.

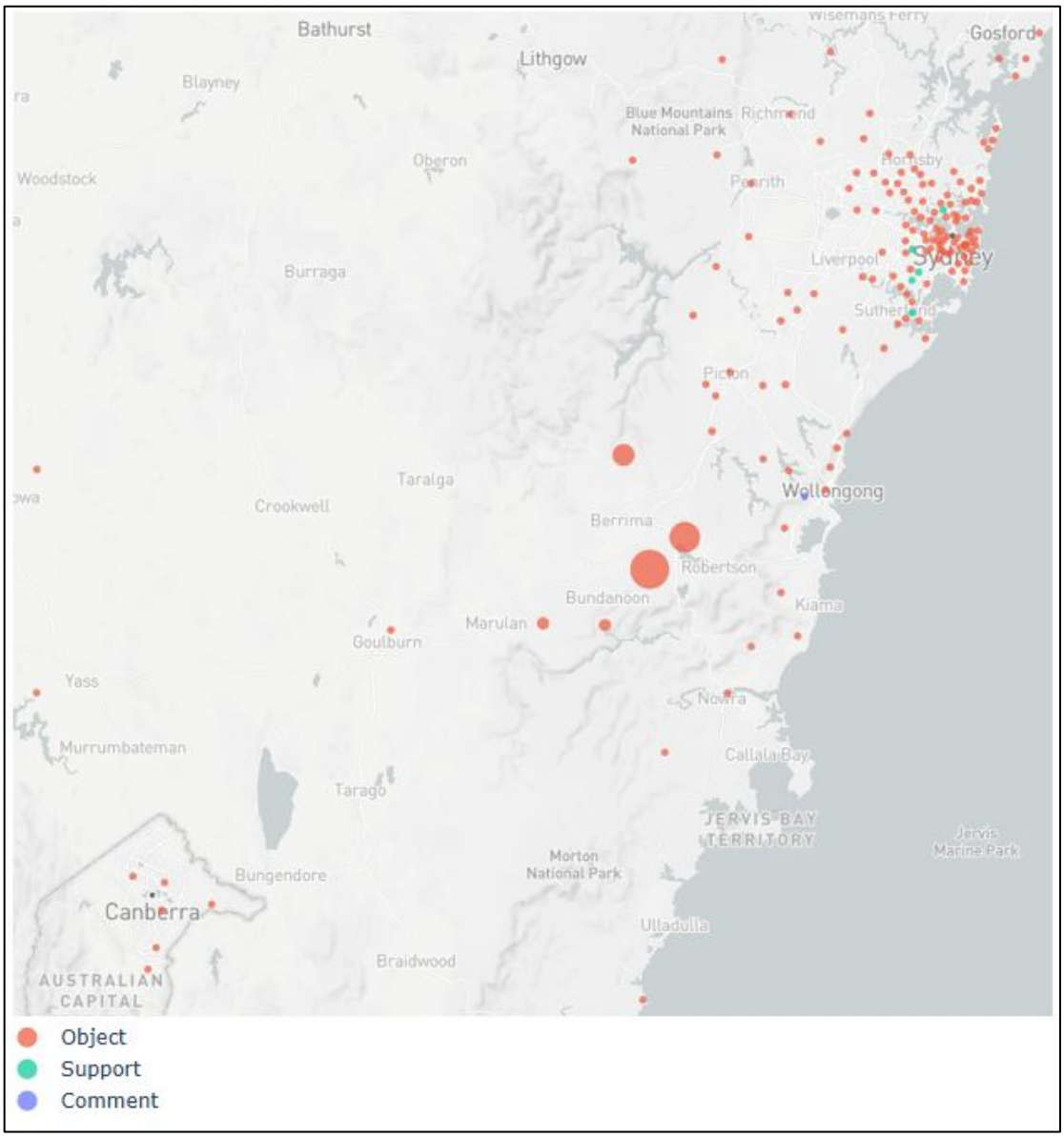
33. The Commission received written submissions on the Application from a total of 2,844 separate submitters. The Commission notes that multiple written submissions from an individual or party are considered and counted as a single submission. The Commission received:

- 29 submissions in support;
- 2,809 objections; and
- 6 comments.

4.3.1 Geographic distribution

34. The vast majority of written submissions were received from the Southern Highlands locality and greater Sydney (**Figure 3**).

Figure 3 – Written submissions to the Commission from the Southern Highlands and greater Sydney areas and surrounds



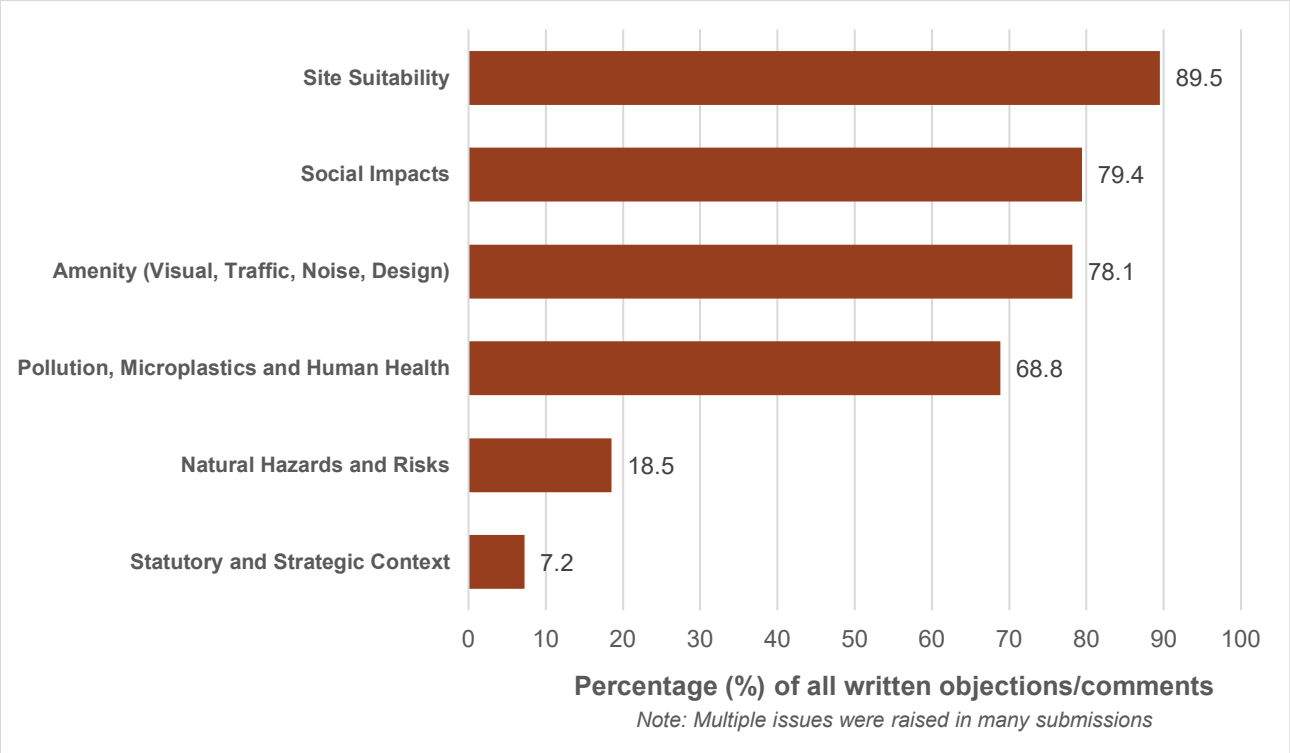
4.3.2 Key issues raised

35. Key issues raised in written submissions are outlined below in **Table 5** and **Figure 4**. The Commission notes that this is not an exhaustive report of the written submissions but is reflective and illustrative of what the Commission regards as the key issues that emerged from those submissions.

Table 5 - Key issues raised in written submissions

Key issues	Summary of issues raised in written submissions
Site suitability	The Site of the Project was seen as unsuitable for a range of reasons including amenity impacts within the locality, land use conflict with existing and future residential and industrial developments, visual impacts, traffic, air and water quality and potential impacts to community health (including impacts of microplastics).
Microplastics and human health	The Project's potential to release microplastics into the environment and potential associated health impacts was a key theme.
Visual impacts	The Project was considered to be out of character with the locality, demonstrating excessive height, bulk and scale resulting in it being visually prominent within the landscape.
Traffic and transport	Issues raised included traffic volumes, heavy vehicle transport routes and traffic-related noise.
Natural hazards and risks	The Project's exposure to natural hazards, in particular flooding and bush fire was a concern, including the risk of fire at the Site and consequential health and environmental impacts.
Noise and vibration	The Project was considered to result in adverse noise and vibration impacts on the ABR facility and existing dwellings in the area.
Air and water quality	Concerns were raised about the impacts of the Project on air and water quality, largely associated with community concerns regarding microplastics.
Social impacts	The Project was seen to give rise to social impacts within the locality and more broadly across the Moss Vale area.
Public interest	It was argued that the Project should not proceed as it would not be in the interest of the general public or local community due to its potential negative impacts. However, many submitters and speakers at the public meeting emphasised that they were not opposed to plastics recycling generally.
Other issues	Other issues raised included Aboriginal cultural heritage, biodiversity and the Project's inconsistency with Council's Southern Highlands Innovation Precinct (**SHIP**). Council also raised concerns with the Project's proposed rail crossing.

Figure 4 - Key issues raised in written objections and comments to the Commission



5. Key issues

5.1 Site suitability

36. The suitability of the Site for the Project was a matter raised in a large volume of submissions received by the Commission.

37. The Department notes that "*[t]he development is a resource recovery facility located on E4 General Industrial zoned land which is permissible with development consent*" (AR, Table 15). Although the Commission accepts that the present Application is permissible in the relevant zoning, this is not determinative of whether a specific application is suitable at a particular site. The Commission, for the following reasons, has found that this Application is not suitable for this Site.

5.1.1 Land use compatibility

38. Several differing land uses and existing developments surround the Site. Land uses to the north and east are largely industrial with residential land uses to the south and southeast. Although land to the west and further southwest is zoned for general industrial land uses, the current use of this land is predominately for rural/agricultural purposes (**Figure 5** and **Figure 6**).

Figure 5 - WLEP Land Zoning Map, with the Site indicatively shown in red (Source: NSW Planning Portal Digital EPI Viewer – markups by the Commission)

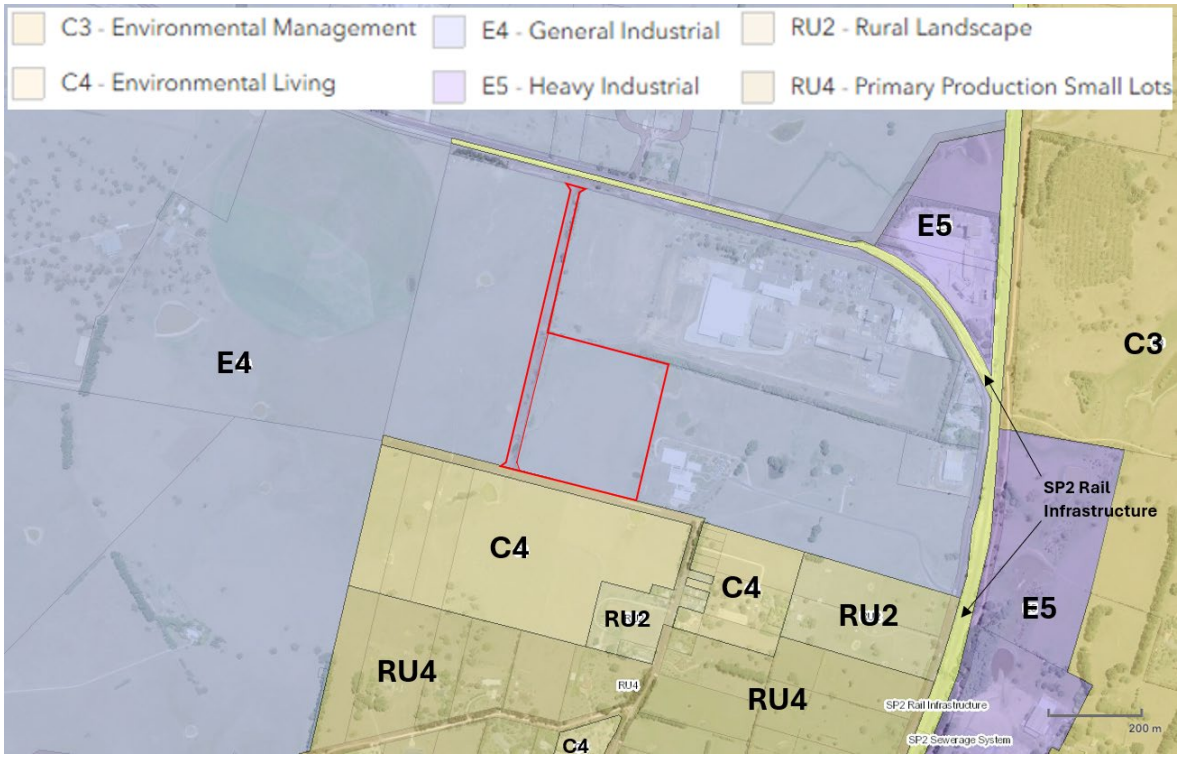


Figure 6 - Existing land uses and existing developments surrounding the Site (Source: AR, Figure 3)

Australian BioResources facility

39. The Garvan Institute's ABR facility directly adjoins the Site to the east (**Figure 6**). The ABR facility is purpose-built to breed and hold unique genetically modified mice colonies for critical medical research into cancer, heart disease, skeletal diseases and autoimmune diseases. The ABR facility holds up to 40,000 mice and sends approximately 270,000 mice per year across eastern Australia for use in research. The facility is one of only two similar facilities in Australia (AR, para 23-24).

40. Numerous community submissions raised potential impacts on the ABR facility as a key concern. The operator of the ABR facility objects to the Project because:

- ABR is a one-of-a-kind facility in NSW, which is crucial to the achievement of the State's health and medical research priorities in supporting research infrastructure (as per the NSW Office for Health and Medical Research);
- the construction and operation of the Project poses risks to ABR's work, which would have catastrophic adverse consequences if they were to materialise;
- those risks, if they were to materialise, would thwart the attainment by Garvan of its statutory objects; and
- the conditions in the Department's Recommended Consent do not guard against those risks.

41. The Department also identified potential for the Project to adversely impact the ABR facility due to its proximity and industrial nature. As mice held in the ABR facility are very sensitive to their surroundings, there is a risk that impacts from the Project may cause these mice to become unwell, disrupt their breeding, or alter their behaviour. If the mouse lines of the ABR facility were to be disrupted or suspended, this in turn poses a risk to the medical research sector which relies on the use of these specifically bred mice for its work (AR, 161).

42. The ABR facility raised several issues with the Department during its assessment of the Project. The Department met with representatives of the ABR on three occasions, confirming that fire and vibration presented the greatest risk to the ABR facility and its operations (AR, para 161).

43. Regarding vibration impacts, the ABR facility advised the Department that vibration during mice embryo injection can cause the procedure to fail and may negatively impact the continuity of the mouse lines at the facility (AR, 167). After consultation with the ABR facility a vibration study was prepared by the Applicant, which found that vibration impacts during construction can be adequately managed through a range of measures including the preparation of a detailed Construction Noise and Vibration Management Plan (**CNVMP**) in consultation with the ABR facility operators, limiting the size of vibratory rollers, and scheduling the use of those rollers (AR, para 168). Preparation of the CNVMP would be reinforced via the Department's recommended conditions should any subsequent development consent be granted (AR, para 169).

44. The Garvan Institute's submission describes how during recent construction works associated with Braddon Road, staff performing micro-injections reported embryos were moving under the microscope as a vibrating compacting roller was used. This reportedly resulted in a 25 per cent loss of viable mouse embryos and severely impacted ABR's ability to perform that service.

45. If a fire event were to occur at the Site, smoke and fumes entering the ABR facility via the air conditioning systems would place the mice at risk. The Garvan Institute's submission affirms their position that a fire event at the Site would cause significant impacts to the mice through smoke and gas emissions and the consequent shutting down of the ABR facility's air-handling systems which would prevent fresh air circulation to the mouse cages.

46. The Department consulted with Fire and Rescue NSW (**FRNSW**) and found the risk of smoke impacts on the ABR facility to be relatively low, particularly given that sprinklers, together with a fire detection and warning system and smoke hazard management system are proposed to be installed in the recycling facility as part of the Project (AR, 164-165).

47. The Department's AR (para 165) also notes that to ensure any potential fire related impacts are minimised and the ABR facility can take appropriate and timely action to protect the mice, the Emergency Response Plan (ERP) recommended as a condition of consent would include specific procedures to notify ABR facility staff of any fire incident at the Site.

48. The Department is satisfied that appropriate measures are in place to ensure fire safety is a priority and that any potential fire event can be quickly brought under control to reduce possible impacts on the ABR facility. Measures include appropriate sizing of the Project's sprinkler systems to ensure any fire can be extinguished quickly and the storage of sufficient water onsite for emergency services use during fire events in accordance with the guideline *Fire Safety in Waste Facilities* (AR,166).

49. The Garvan Institute's submission states that the ABR facility was designed to address the environmental conditions of the location at the time of the facility's construction and should the Application be approved, significant investment would be required to mitigate these risks and these costs should not be borne by the Garvan Institute or ABR facility. The submission considers the Department's recommended conditions of consent to be insufficient in protecting the ABR facility, suggesting the conditions do not reflect specialist consultant report recommendations. The Garvan Institute also requested that, should the Commission approve the Project, strict environmental and other conditions to mitigate these risks should form part of the consent and be appropriately enforced during construction and operation.

50. The Department provided additional information to the Commission in correspondence dated 14 January 2025, addressing the Garvan Institute's submission. The Department reiterated its assessment of potential impacts to the ABR facility and made suggestions to amend the recommended conditions should the Commission see fit.

Commission's findings – Australian BioResources facility

51. The Commission acknowledges the Garvan Institute's concerns regarding the ABR facility's sensitivity to impacts from the Project and that the ABR facility is a unique and critical piece of infrastructure which provides pivotal research and associated services to the Australian medical research sector. This is affirmed by comments from NSW Health (via the Department on 14 January 2025) that *"the ABR facility is a significant facility in the national research ecosystem – and is one of a kind for the State."* The highly sensitive nature of the ABR facility and its importance to Australia's medical research efforts are key considerations for the Commission in determining the suitability of the Site for the Project.

52. The Commission finds that the ABR facility will be subjected to noise and vibration impacts during the construction period and 24 hour a day, seven day a week operation of the Project and that these impacts could be detrimental to the successful ongoing operation of the facility. Noting the prior impacts experienced by the ABR facility during construction works on Braddon Road, the Commission considers the potential vibration impacts to be a crucial issue to the ongoing viability of the ABR facility's nationally significant research, and that it is not appropriate to resolve such matters post-consent.

53. The Garvan Institute's submission highlights that operational vibration impacts have not been adequately considered or addressed via the Department's recommended conditions. In response, the Department's correspondence to the Commission dated 14 January 2025 advises that operational vibration sources would be limited to trucks travelling to and from the premises and machinery operating indoors on a concrete slab, stating operational vibration is expected to be low. The Department further suggests that its recommended conditions could be amended to address vibration impacts on the ABR facility during operation.

54. Considering the highly sensitive nature of the ABR facility, the Commission finds the potential operational vibration impacts of the Project to be in direct conflict with the established operations of the ABR facility. Seeking to resolve such impacts as a post-consent matter is not, in this case, an appropriately robust and reliable approach. The potential risks of such an approach to the work of the ABR facility and resulting likelihood of land use conflict are significant.

55. As discussed below in **Section 5.1**, the Commission is satisfied that all appropriate measures to prevent a fire event on the Site have been proposed. These measures are not, however, capable of excluding the possibility of a fire. Given the very significant potential impact to the ABR facility should there be a fire, approval of the present Application directly adjoining a critical and highly sensitive scientific research facility is not an acceptable or reasonable land use planning outcome.

Residential land uses

56. There are several existing residential land uses (sensitive receivers) within close proximity of the Site to the south, southwest and southeast. The nearest sensitive receivers are located approximately 320 m to the southwest and 220 m to the southeast (**Figure 7**).

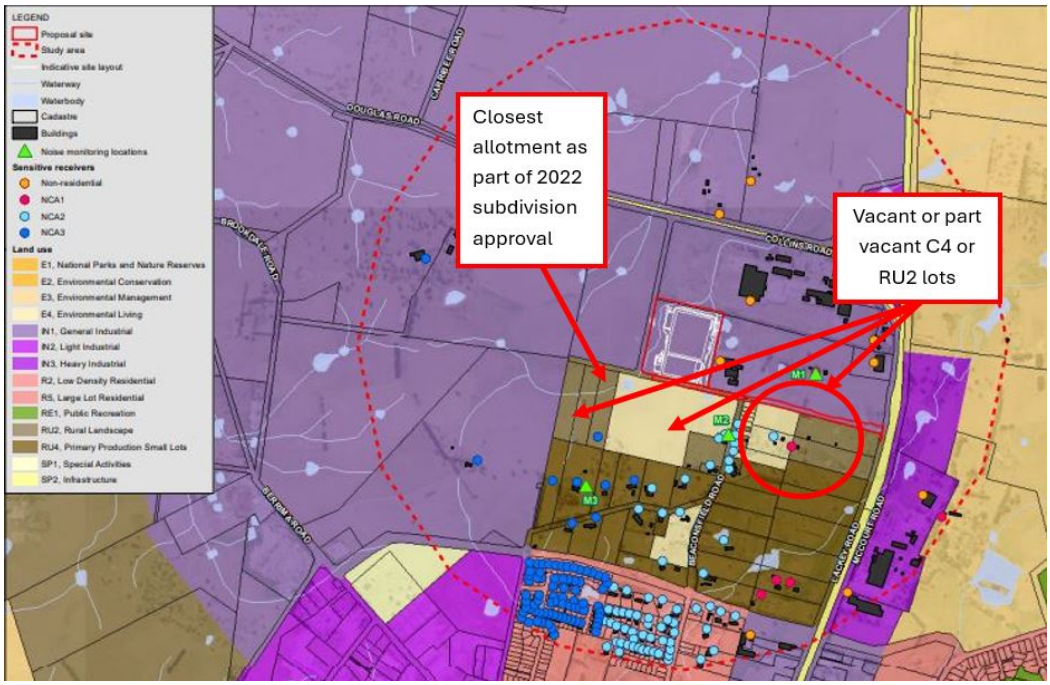
57. Dwelling houses are permitted with development consent on land within the C4 zone to the south of the Site. Further, WLEP minimum lot size controls permit subdivision down to a minimum of 2 ha, with subsequent dwelling house entitlements on such allotments. Attached dual occupancies and secondary dwellings are also permitted land uses within the C4 zone. Accordingly, Part Lot 11 in DP1084421 (owned by the Applicant) to the south of the Site has subdivision and dwelling house development potential, with an area of approximately 12 ha.

58. Three allotments of land were created via subdivision in 2022 within the C4 zone at the western end of Braddon Road, with Braddon Road itself upgraded in 2024 as part of the subdivision approval to service the allotments. Of these three allotments, the closest to the Site is approximately 90 m (**Figure 7**).

59. The WLEP also provides potential dwelling house entitlements to existing allotments of land within the C4 zone and RU2 zone which do not meet minimum lot size controls.

60. As such, there are numerous allotments which are currently vacant, but which may have a dwelling house entitlement (**Figure 7**). Accordingly, the Commission has considered these allotments as capable of being sensitive receivers in the context of land use compatibility considerations.

Figure 7 - Existing and potential sensitive receiver sites in proximity of the Site (Source: Applicant's NIA - markup by the Commission)



61. There are several potential impacts associated with the Project which could contribute to land use incompatibility and conflict, result in constraints being imposed on existing and future residential uses surrounding the Site, and prejudice and/or fetter the future use of adjoining land for residential purposes.

Noise impacts

62. Construction and operation of the development will generate noise which could potentially impact the amenity of the locality, particularly given the proposed 24-hour, seven day a week operation (AR, Table 9).

63. The Department's AR (Table 9) notes sensitive receivers are located approximately 320 m to the southwest and 220 m to the southeast of the Site (**Figure 7**). The Applicant's Noise Impact Assessment (**NIA**) grouped the sensitive receivers into three noise catchment areas (**NCAs**) (see **Figure 7** previously):

- NCA1- Dwelling houses within approximately 300 m of Lackey/Collins Road and the railway line;
- NCA2 – Dwelling houses between approximately 300 m and 800 m of Lackey/Collins Road and the railway line; and
- NCA3 – Dwellings beyond 800 m of Lackey/Collins Road and the railway line.

64. Final operational plant and machinery to be used in the Project has not been identified by the Applicant, so the equipment sound power levels in the Applicant's assessment were based on reference plant and machinery or were modelled based on the assumption of an internal noise level of 85 dBA at one metre (AR, Table 9).

65. The Project's construction period is expected to take up to 15 months across four stages. The NIA assessed the impacts of each stage on the three noise catchments and determined there would be several exceedances of the applicable noise management level (NML), by up to 19 dBA (with a maximum of 65 dBA predicted in NCA2) (AR, Table 9). The Department notes the model was highly conservative as it assumed the two loudest items of equipment to be operating at maximum capacity simultaneously at the closest distance between the construction works and the receiver, which is unlikely to occur and if it did it would be for short periods only. The NIA proposed a range of mitigation measures including mufflers on machinery, which are likely to reduce noise by up to 10 dBA (AR, Table 9).

66. The Department recommends a Construction Noise and Vibration Management Plan (**CNVMP**) be prepared in consultation with the ABR facility that includes details of implementation of all the relevant mitigation measures, the requirement to monitor noise and vibration during construction, and a complaints protocol. If monitoring shows exceedances, the recommended conditions require the Applicant to take action to ensure compliance with the relevant noise and vibration management levels (AR, Table 9).

67. In terms of construction noise and vibration impacts (noting vibration impact considerations for the ABR facility were discussed previously), the Department concludes that due to the temporary nature of the construction period, the conservative nature of the modelling and proposed management measures, and recommended conditions of consent, it considered that construction noise and vibration can be managed appropriately (AR, Table 9). The Garvan Institute's submission raises concerns regarding vibration which are discussed in the Commission's findings previously.

68. Regarding operational and traffic noise impacts generated by the Project, the Applicant provided modelling with two worst-case operational scenarios. Both assumed the roller doors were open, with the second scenario also considering worst-case onsite heavy vehicle movements. Predicted noise levels remained compliant with the Project Noise Trigger Level (**PNTL**), including sleep criteria, at the most-affected residences during all assessment periods, assuming only two trucks leave the Site in any 15-minute period (AR, Table 9). The NIA also determined the development would not increase road traffic noise by more than 2 dBA due to the distance of the road to existing dwellings (AR, Table 9).

69. The EPA reviewed the assessment and raised some concerns given the uncertainties in source noise levels and their mitigation, as there is some risk of noise emissions being above what was modelled. The EPA proposed noise limits which reflect the predicted noise levels and a requirement to undertake noise monitoring which, it advised, would be sufficient to address these uncertainties. The EPA also recommended a Traffic Noise Management Plan (**TNMP**) be prepared (AR, Table 9).

70. The Department advised that it has carefully considered the information provided in the Applicant's assessment, issues raised in submissions and advice from the EPA, and notes the development has incorporated noise controls to ensure no adverse amenity impacts at sensitive receivers, including through design considerations and enclosure of all processing areas (AR, Table 9).

71. The Department's recommended conditions include requirements to comply with operational noise limits and ensure all doors are closed when not in use. A condition is also recommended limiting truck movements to daytime only and limiting the number of trucks egressing the Site to a maximum of two per 15-minute period. The Department recommends the preparation of noise verification reports at both commencement and at full operation of the Project, requiring noise monitoring and details of contingency measures to be implemented should operational noise exceed the recommended noise limits (AR, Table 9).

72. The Department notes that any increase in road traffic noise would remain under 2 dBA, which is considered to be negligible. However, to minimise any effects on the community, it recommends a TNMP be prepared to manage traffic noise in line with EPA advice (AR, Table 9).

73. The Department's AR concludes that operation of the Project is unlikely to have adverse noise impacts on sensitive receivers and the requirements for noise verification would ensure the development remains compliant with its noise limits (AR, Table 9).

Visual impacts

74. The Project has the potential to adversely impact the visual amenity of the surrounding locality due to the Site's location at the interface with rural and residential areas. Submissions received by the Commission noted the Project is not in keeping with the character of the locality, raising concerns of visual impacts arising from the Project's size, bulk and scale.

75. The Project's built form is comprised of two large warehouses and ancillary structures, with an overall height of 15.5 m and a 3.24 ha footprint. The Project went through numerous design iterations through the Department's assessment phase before reaching the final proposed built form and design. Please refer to **Figure 8** and **Figure 9** below.

Figure 8 - Site Plan with key elements (Source: Applicant's preliminary design report)

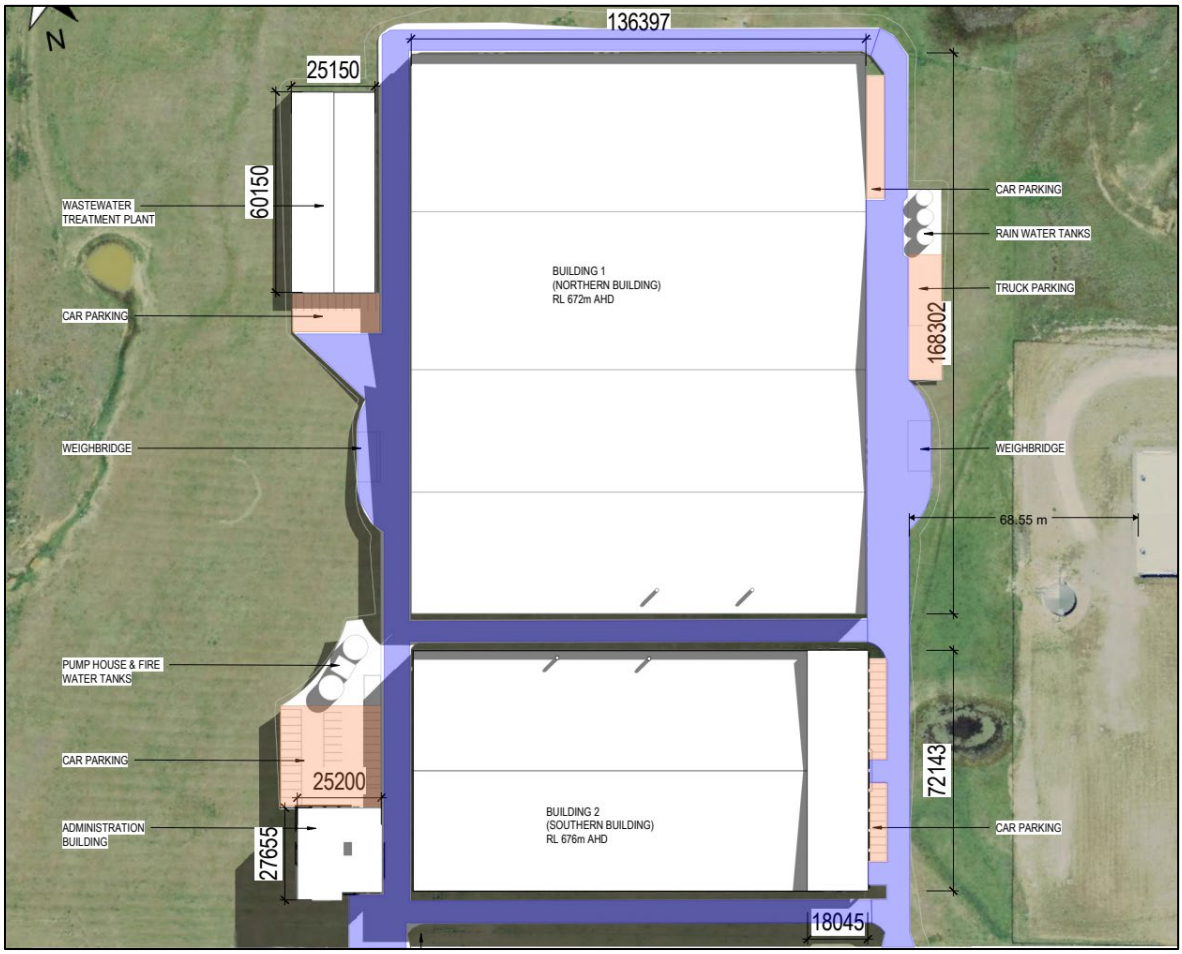


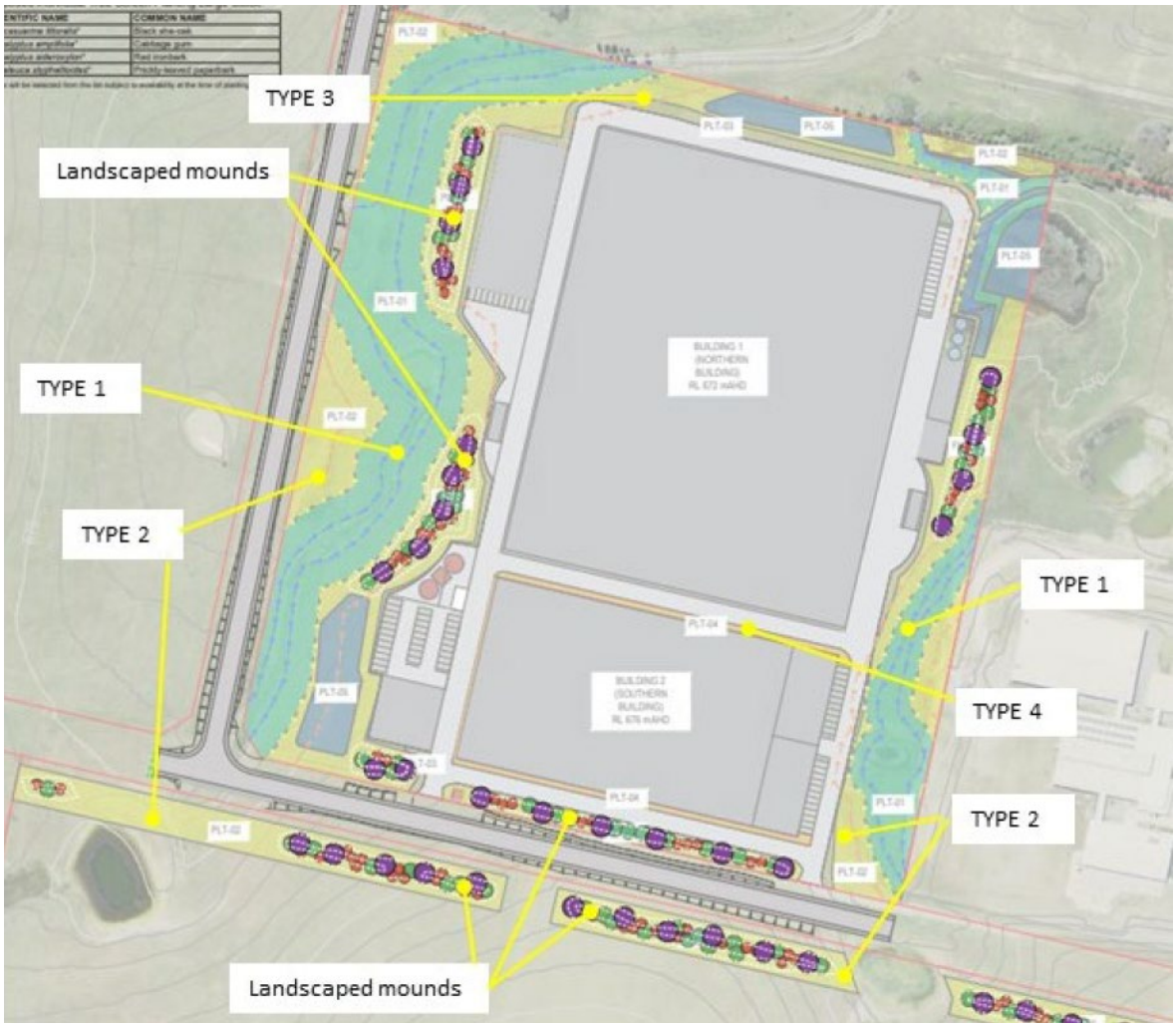
Figure 9 - Architectural rendering of Project, view of southern and eastern elevations. (Source: Applicant's preliminary design report)

76. Proposed landscaping includes four types of screening trees with varying canopy density to help break up the large building façade. Although not part of the development, the Applicant also proposed landscaping (15 m wide) comprising native screen planting and mounding along the northern boundary of the property on the other side of Braddon Road (Part Lot 11 DP 1084421) which is owned by the Applicant (AR, para 148).

77. A summary of the proposed landscaping is provided below (AR, para 149) and shown in **Figure 10**.

- TYPE 1: Vegetated Riparian Zone - mass planting of a mix of trees, shrubs and grasses;
- TYPE 2: Bushland Screen Planting - mass tube stock planting of trees, shrubs, grasses and groundcovers;
- TYPE 3: Steep batters – shrubs, grasses and ground covers used to help stabilise soils associated with batters along the access road; and
- TYPE 4: Groundcover Planting - includes a monoculture planting of Purple Coral Pea in a strip landscape bed around the perimeter of Building 2.

Figure 10 - Landscape Plan (Source: AR, Figure 13)



78. Photomontages of the Project are provided below (**Figure 11**) showing existing views towards the Site from in front of 72 Beaconsfield Road, looking north-west towards the Site.

Figure 11 - Photomontages showing existing landform (top), the Project without landscaping (middle) and the Project with landscaping (bottom) (Source: Applicant's preliminary design report)

79. In terms of bulk and scale, the Department's AR (para 152) notes that although the height of buildings was reduced in the RtS and amended development report, the building area was not reduced. The Applicant explained the proposed footprint and height of the buildings are required to facilitate the required machinery layout and heights. On review of the internal layout, the Department was satisfied that these were operational requirements for the Project.

80. The Department found that the initial iterations of the building and landscape designs did not fully consider the visual impact on nearby residents, but the updated final design and landscaping represent a considerable improvement, especially in terms of the screening provided by mature plantings set on landscaped mounds to increase their height (AR, para 153).

81. The Department acknowledges the buildings would remain partly visible to nearby residents, however it found that the façade design together with the proposed landscaping would help to break up the visual impact of the long building walls (AR, para 154).

82. Given the proposed landscaping is substantial, the Department found that the residual visual impacts are low, however there remains some potential for visual impacts on private residences to the south of the Site (AR, para 157). Conditions were therefore recommended requiring the Applicant to notify landowners with sight of the Project that they are eligible to have mitigation (such as landscaping or vegetation screening) installed by the Applicant on their property to help block views of the Project.

83. The Department finds that the updated design and increased landscaping in the current iteration of the Project have largely minimised the visual impacts of the buildings. The Department's assessment concludes that the design and landscaping have mitigated the visual impacts of the Project and are acceptable, subject to the recommended conditions (AR, para 158-159).

Traffic and transport

84. The Project would generate approximately 40 heavy vehicle movements and up to 60 light vehicle movements per day during the peak times of construction, and at full operational capacity would generate up to 100 heavy vehicle movements and 280 light vehicle movements per day. The heavy vehicle movements are proposed to be restricted to Monday to Friday, 7am – 6pm.

85. The operational heavy vehicle route to the Site from Sydney is proposed to be via the Hume Highway, Medway Road, Taylor Avenue, Berrima Road, Douglas Road, Collins Road, the new 'north-south' access road and Braddon Road. The Commission notes that Taylor Avenue is classified as a Regional Road and passes through New Berrima adjoining R2 Low Density Residential land to the north of the road.

86. Additionally, the Commission notes that Braddon Road, which is proposed to be used to provide access and egress to and from the Project, was constructed in 2024 to a residential standard as part of a development application for a residential subdivision south of the Site. The Applicant proposes to finalise the construction of Braddon Road to the standard of a collector road prior to operation. As discussed above, Braddon Road is approximately 90 metres from a three-lot residential subdivision approved in November 2022. The land to the immediate south of Braddon Road is currently vacant and within the C4 zone which permits residential land uses.

87. The Department concludes that 5 trucks per hour in each direction represents a low additional contribution to heavy vehicle traffic and the operational shift changeover traffic (light vehicles) would occur three times per day, two of which are not during peak hour (AR para 187). The Department has recommended operational traffic measures including the preparation of an Operational Traffic Management Plan (**OTMP**) in consultation with Council.

Commission's findings – residential land uses

88. The Site is located at a zone interface, being on the southern edge of an E4 zone and adjoining land zoned C4 and RU2. In addition to the sensitive receivers proximate to the Site, adjacent land to the south of the Site also has further residential development potential which the Commission considers to be an important consideration in the determination of the Project. The Commission finds that the Project will result in an unacceptable imposition of constraints to existing and future residential land uses within close proximity to the Site.

89. The Land and Environment Court (**LEC**) Planning Principle for 'Development at Zone Interface' established in *Seaside Property Developments Pty Ltd v Wyong Shire Council* [2004] NSWLEC 117, provides guidance in determining land use compatibility matters associated with the Project. Although not treated by the Commission as a binding precedent or a rule to be followed, the Planning Principle supports the Commission's position that existing and future land uses within the C4 and RU2 zones must also be considered:

> *"As a matter of principle, at a zone interface as exists here, any development proposal in one zone needs to recognise and take into account the form of existing development and/or development likely to occur in an adjoining different zone."*

90. To this end, the Commission finds that the noise impacts of the Project will adversely impact the current levels of amenity enjoyed by nearby sensitive receivers and constrain and/or restrict and potentially prevent future residential development within the locality, as any future development near the Site would be affected. The Department's recommended condition to impose operational noise limits at sensitive receivers is not an appropriate mitigation measure in consideration of uncertainties around the Project's noise sources and the nature of the area.

91. Whilst conservative modelling has been undertaken when considering construction noise impacts, the Commission does not find it acceptable that noise impacts over a 15-month construction period could impact some sensitive receivers via exceedances of the applicable NML by up to 19 dBA. A CNVMP is not considered suitable or sufficient to address this significant noise impact.

92. The Commission finds that the visual impacts of the development are excessive for the locality. Although the proposed landscaping does reduce the visibility of the Project from sensitive receivers, the built form and scale of the development would make it a prominent feature within the locality and for land uses to the south of the Site. Reliance on landscaping (which must be constantly maintained and satisfy bush fire requirements which could impact the proposed landscape design (see **Section 5.1.2**)) to mitigate the visual impacts of large articulated sections of the building is not considered to be sufficient to address this impact. The bulk, scale and form of the Project is also considered excessive for a development which is located at the zone interface of the C4 zone and RU2 zone. The bulk of the Project is substantially greater than that of the adjoining ABR facility and is not conducive to providing a 'transition of scale' between the C4 zone and the E4 zone.

93. The Commission considers the Project's operational traffic generation of 100 heavy vehicle movements and 280 light vehicle movements per day to be an unacceptable volume of traffic on Braddon Road. The road directly adjoins existing and potential future residential land uses and is used to service allotments recently created for residential purposes. Due to the volume of traffic proposed by the Project, residential traffic conflicts are likely, and these impacts will be further exacerbated by the associated traffic noise.

94. The Commission does not find the proposed mitigation measures, being the preparation of an OTMP, the upgrading of Braddon Road and a TNMP, to be suitable to mitigate the impacts of the traffic on the surrounding sensitive receivers (existing and future). The Project is not conducive to its locality from a traffic perspective and as a result, the Commission does not consider the Site to be suitable for the development.

95. The Commission finds that the Project would result in constraints on land which has residential development potential to provide housing within the LGA and more broadly, for NSW.

96. The Commission finds that the 24-hour, seven day a week operation of a waste and resource management facility is an incompatible land use on a Site which interfaces with a C4 Environmental Living zone and RU2 Rural Landscape zone. The impacts arising on existing and future land uses within the locality would be unacceptable.

5.1.2 Natural hazards and risks

Flooding

97. The Site is flood prone land and consequently has the potential to impact flood water behaviour on and off the Site (AR, Table 9).

98. The Applicant's flood assessment (as amended) modelled a range of flood events up to and including a probable maximum flood (**PMF**) event and concluded there would be minimal offsite impacts from the Project and only a minor increase in flood velocity in a 1% annual exceedance probability (**AEP**) flood event. There would be a slight increase in flood levels in the eastern and western creeks by up to 300 mm, and around the dam on the lot to the east by 100 mm (AR, Table 9).

99. The Biodiversity Conservation and Science Group (**BCS**) raised no concerns with the final flood assessment. The Department has reviewed the RtS and revised flood assessment and has concluded all buildings would be protected in the PMF event and the development would have minimal offsite impacts in the 1% AEP flood event, which would be reduced further during detailed design (AR, Table 9).

100. The Department's assessment concludes the potential water impacts can be minimised and managed by the Applicant via the implementation of proposed water management measures and consent conditions (AR, Table 9).

Bush fire

101. Bush fire was raised by community members as having not been considered in the Application.

102. As part of their submission on the Application to the Commission, the Applicant provided bush fire assessment information. The Commission then requested via the Department that the Application be referred to the NSW Rural Fire Service (**RFS**).

103. The Department provided a response to the Commission on 14 January 2025 which included comments from the RFS with recommendations for the Project, including Asset Protection Zones, landscaping, construction standards, property access, and water and utility services. The RFS did not object to the Project.

Operational fire

104. The community raised potential fire risks arising from the Project in a substantial number of submissions and presentations.

105. The Project proposes to handle up to 120,000 tpa of combustible plastic waste (AR page 41) and would not be permitted to store more than 20,000 tonnes of unprocessed mixed waste plastic on Site at any one time. The Applicant provided an assessment against the FRNSW guidelines *Fire Safety in Waste Facilities* (FRNSW guidelines) and proposes to implement a range of management measures including limits on stockpile size, separation distances, access for fire engines, the provision of fire water hydrants and associated tanks, fire water containment and the preparation of plans (AR page 41).

106. The Department outlines in the AR that they are satisfied that the Applicant has demonstrated the design of the Project is in accordance with the FRNSW guidelines and that, whilst acknowledging the increased risk of fire in waste facilities, notes that the purpose of the guidelines is to ensure waste facilities are designed and operated to manage that risk, and therefore the Project would be managed to ensure a low risk of a large fire. The Department recommended conditions of consent include requirements for the preparation of a Fire Safety Study (FSS) in consultation with FRNSW, the preparation and implementation of an Emergency Response Plan in consultation with FRNSW, the preparation of an Emergency Services Information Package and appropriate storage of dangerous goods and all chemicals, fuels and oils used on Site.

107. In its correspondence to the Commission dated 14 January 2025, the Department provided correspondence from Fire and Rescue NSW which outlined FRNSW's advice regarding the fire risk and the local firefighting operational capacity. FRNSW outlined their recommendation for a comprehensive FSS to be developed which would examine the specific risks of the proposed facility and include mitigation measures to deal with the potential fire scenarios at the development. Additionally, FRNSW outlined that the FSS should also include mitigation measures for potential fire scenarios that adequately manage those scenarios without any intervention by emergency services or contain and prevent escalation of the potential fire scenarios prior to emergency services arriving.

108. FRNSW outlined the FRNSW capability in the Southern Highlands area and provided a mock response scenario which outlined the response time of resources in the area with the first resource having an 11-minute response time and an additional 5 resources arriving within 20 to 53 minutes.

Commission's findings – Natural hazards and risks

109. The Commission agrees with the Department's assessment of flooding impacts and considers the protection of buildings during a PMF flood event and minimal offsite flooding impacts during a 1% AEP flood event (reduced further during detailed design) to be acceptable.

110. The Commission is satisfied that the implementation of the design and management measures recommended by RFS would adequately mitigate the bush fire risk to the Project and therefore considers the bush fire risk to the Project to be acceptable subject to these measures.

111. The Commission acknowledges community concerns regarding the inherent fire risk of a waste facility and the limited operational capacity of local fire-fighting resources. The Commission however notes the design and proposed operation of the Project is in accordance with the FRNSW guidelines and that FRNSW have reviewed the Project and did not object to the development, instead providing recommended conditions of consent for detailed studies and plans to be prepared. The operational capacity of local fire-fighting resources is required to be further considered in those detailed plans. Therefore, the Commission considers the fire risk of the development, if managed in accordance with the recommended conditions of consent, is not a reason for refusal.

112. The Commission however does note the EPA's comments outlining that a fire at the facility would pose a significant environmental risk. The Commission finds that although the Application proposes appropriate measures to mitigate (but not eliminate) the risk of fire, a waste and resource management facility fire event at the Site (in proximity to sensitive receivers, the highly sensitive ABR facility and the Moss Vale locality generally) would cause significant environmental and health impacts within the locality, and therefore exacerbates the Project's unacceptable land use conflicts. The Commission considers such risks would be significantly lower, and capable of being acceptable, if the Project was located in an area with less sensitive receivers which is more conducive to a waste and resource management facility of this nature.

5.1.3 Findings

113. The Commission has considered the nature of land uses surrounding the Site, in particular the ARB facility to the east and nearby residential (sensitive) land uses. The Commission is not satisfied that the Site is suitable for the Project due to:

- Land use conflicts arising between the Project and existing established uses in the locality and potential future land uses. The Project's impacts will result in the unacceptable imposition of constraints on adjoining land uses and will negatively impact the development of adjoining land, including for housing.
- Natural hazards and risks associated with Project, specifically the Site's context and proximity to sensitive receivers and consequently increased risk exposure to environmental and health impacts should a fire event occur.

5.2 Microplastics and human health

114. Microplastics and subsequent potential health impacts were raised by many speakers during the public meeting and in a significant volume of submissions. The Department in its AR (Table 9) notes that microplastics can be generated by physical, chemical and biological fragmentation of plastic. As crushing and moulding of plastic has the potential to generate microplastics, concerns were raised by Council, the public and the EPA about the presence of microplastic particles in the environment.

115. The Commission notes the Department's AR (Table 9) which acknowledges the public's concern regarding microplastics in the environment, and states that the Department is satisfied impacts can be restricted to an acceptable level (AR, Table 9). The Commission notes that this 'acceptable level' is a key concern for the community.

116. During the Commission's multi-agency stakeholder meeting on 3 December 2024, NSW Health's representatives advised the Panel that their position on microplastics is still emerging, noting that people are exposed to microplastics, and this exposure is increasing, "*but consequences so far are either inapparent to us or have been insufficiently studied*". NSW Health also stated "*microplastics are ubiquitous and they're an emerging contaminant".*

117. The Commission considers there to be two main pathways through which microplastics generated by the Project may potentially enter the environment, being via water and/or air pollution. These are covered under the following sections on water quality and air quality.

5.2.1 Water quality

118. Public submissions raised concerns with the potential impacts of the Project on water quality in the Sydney Drinking Water Catchment (**SDWC**) and the Wingecarribee River in general. These can be separated into impacts of stormwater and impacts of operational wastewater.

119. Under the SEPP Biodiversity and Conservation, development on land in the SDWC must be consistent with the *Neutral or Beneficial Effect on Water Quality Assessment Guideline 2022*.

Stormwater

120. In regard to stormwater, the Project proposes that roof water, rainwater tank overflow and gross pollutant trap outflow would be directed to water storage basins and would not come into contact with waste. Some of this water would be reused within the operational buildings, while overflow from the storage basins would be directed to bioretention basins for treatment before being released offsite (AR page 43).

121. The Commission understands the primary concern of the community in relation to stormwater is the potential for stormwater to transfer microplastics and other contaminants into the environment, specifically to the Wingecarribee River and the SDWC.

122. The Department notes that the Applicant's modelling demonstrated that the neutral or beneficial effect on water quality (NorBE) requirements under the SEPP Biodiversity and Conservation would be met (AR page 43). In its meeting with the Commission, WaterNSW stated that stormwater assessments are conducted under the assumption that proposed management measures can treat stormwater appropriately provided that there is no mixing of the stormwater with wastewater. This assumption requires that there is no inundation of water into the water treatment system from a failure or unusual event (such as flooding which is addressed in **Section 5.1** of this report). The Department's AR (Table 9) notes that "*A detailed flood study submitted as part of the RtS, identified the development would actually be flood free in a Probable Maximum Flood event*". The likelihood of flood waters contributing to microplastics potentially entering the environment is considered by the Commission to be minimal.

Production wastewater

123. In regard to production wastewater, the Project will produce both domestic wastewater from toilets and other standard uses, and wastewater from the plastics recycling process of up to 10kL/day. The Commission understands the primary concerns of the community to be in relation to microplastics contained within the wastewater from the plastics recycling process, herein referred to as production wastewater, being discharged into the SDWC which is discussed below.

124. The Project includes the treatment of all production wastewater by the onsite wastewater treatment plant (**WWTP**). The Applicant in its correspondence to the Commission dated 30 October 2024 states that the proposed on-site WWTP, which would be a dissolved air flotation plant, would be capable of removing more than 90% of suspended solids, including any entrained microplastics, and the suspended solids removed would be disposed of at an appropriately licenced waste facility.

125. Additionally, the Applicant states that any production wastewater processed through the onsite WWTP that is not recirculated would be discharged to the soon to be upgraded Moss Vale Sewer Treatment Plant (STP) for further treatment. Council, in a letter to the Applicant, stated that the Moss Vale STP does not currently and is not proposed to (after its upgrade) include a specific treatment mechanism for microplastics removal, however approximately 90% of any residual microplastics would likely be filtered out during the treatment process, and the remaining 10% could make its way to the environment.

126. In its correspondence to the Commission dated 25 November 2024, the Applicant outlined an additional step of microfiltration which will enable the 10kL/day of production wastewater discharged to sewer to meet a standard of 5mg/L for suspended solids prior to discharge. The Applicant also outlined that Council's Liquid Trade Waste Policy includes a typical acceptance limit for suspended solids of 300mg/L.

127. In its meeting with the Commission, WaterNSW stated that while specific mention of microplastics was not made in their NorBE assessment of wastewater, the NorBE requirements apply to all pollutants.

128. Additionally, WaterNSW outlined that the management of microplastics within recycling process wastewater relies on water treatment plants, for which both a concurrence to a Trade Waste Agreement would be required from the Department, and the requirements of an Environmental Protection Licence (EPL) from the EPA would need to be met, although WaterNSW is not directly involved in these processes.

5.2.2 Air quality

129. The Department's assessment largely focuses on the Project's melting and milling of plastic and notes that it has the potential to generate particulate, volatile organic compounds (**VOCs**) and odour emissions.

130. The Applicant provided an Air Quality Impact Assessment (**AQIA**) prepared in accordance with the Approved Methods for Modelling and Assessment of Air Pollutants in NSW (**Approved Methods**) as part of the EIS. The AQIA was revised on two occasions in response to issues raised by the EPA.

131. The AQIA found that odour generation potential would be minimal. Any operational processes with potential to produce odour would be carefully managed, for example filter cake would be bagged immediately (AR, Table 9).

132. Microplastics in the air within the operational buildings would take the form of fine particulate matter, for which processes in Building 2 would be the primary source of particulates (AR, Table 9). Particulates would be extracted from the source and captured by a dust collection system which includes filter cartridges. The Department's AR (Table 9) notes the EPA did not raise any specific concerns about microplastics escaping to the air.

133. The Department recommended the preparation of an Operational Air Quality Management Plan detailing how air quality would be controlled, which is to include the requirement for all doors to operational buildings to be shut when not required to be in use (AR, Table 9). The Department's assessment concludes that the implementation of its recommended conditions would ensure air quality impacts are acceptable and can be adequately managed by the Applicant.

134. The Commission sought additional information from the Applicant regarding the Project's recycling process, in particular seeking information on what parts of the process would not be fully enclosed. The Commission also sought confirmation from the Department on how long the roller shutter door would be open.

135. The Applicant responded noting that whilst machinery selection is not finalised "*all key steps of the process are enclosed with the exception of the sorting phase, which is partly open due to the need for operators to see what items are on the conveyors*".

136. The Department notes in the Applicant's additional information that the Project's roller shutter doors would be open 42 minutes per day in total to allow trucks to enter the building. The Department further advised in its correspondence that the Applicant has advised the buildings would operate under negative air pressure, which is common in waste facilities to prevent air quality impacts. Filtered exhaust systems would remove air, creating lower air pressure within the building than the air pressure outside. As such when doors open, air flows from the higher pressure outside into the lower pressure inside, ensuring that particles in air, including microplastics, remain inside the buildings even when doors are open.

137. The Department also advised the Commission in its correspondence that all activities with the potential to generate emissions (including particulates such as microplastics and VOCs) would be controlled via capture of emissions to an air pollution control system for treatment prior to discharge via roof ventilation stacks.

5.2.3 Findings

138. The Commission acknowledges the position of NSW Health set out above and that both Water NSW and the EPA have not raised concerns about the Project's potential for microplastic pollution. As outlined above, WaterNSW have found that the Project demonstrates compliance with NorBE requirements, and the EPA advised the Panel that microplastics are considered a particulate and therefore were considered in the Project's air quality assessments.

139. The Commission accepts the understanding of environmental and health impacts associated with microplastics is emerging however, given the position of NSW Health, WaterNSW and the EPA regarding the specific impacts of the Project, the Commission does not consider the uncertainty of impacts on human health and safety alone to be a sufficient reason for refusing the present Application. Nonetheless, the Commission finds that community concerns regarding the uncertain impacts of microplastics are capable of contributing to the social impacts of the Application.

5.3 Social impacts

140. The Commission notes that social impacts cover a broad spectrum of matters such as amenity issues, land use conflict (as discussed in **Section 5.1** above), character of a locality/area, health impacts (as discussed in **Section 5.2** above) and environmental impacts (including reduced air and water quality, noise and vibration, visual impacts and natural hazards and risks).

141. Social impact concerns were raised in a significant proportion of submissions received by the Commission.

142. The Applicant's Amendment Social Impact Assessment (**SIA**) dated September 2023, in conjunction with the Addendum SIA, dated January 2024, proposes an extensive range of mitigation measures specifically developed to manage social impacts (AR para 124). The SIA and Addendum SIA state that many of the negative social impacts of the development have been partially mitigated through the mitigation measures committed to by the Applicant, however there are some residual social impacts that will be unable to be mitigated wholly.

143. The Addendum SIA also states that positive social impacts may be experienced, including addressing sustainability objectives through recycling plastic and benefits to people's livelihoods due to the creation of jobs and benefits to local businesses (AR para 123).

144. The Department engaged Professor Ryan to ascertain whether the SIA and Addendum SIA were robust documents prepared in accordance with the assessment framework documented in the Social Impact Assessment Guideline 2021 (SIA Guideline) (AR para 127). Professor Ryan noted the proposed mitigation measures would reduce many of the impacts identified by the community and stakeholders, however provided recommendations to address the residual social impacts including preparing a Social Impact Management Plan (**SIMP**) and the establishment of a Community Consultative Committee (**CCC**) (AR para 130). Professor Ryan concluded that the proposal adequately addresses the relevant social impacts, subject to the recommended conditions (AR para 132).

145. The Department concluded that with the implementation of the Applicant's proposed mitigation measures, changes made to address concerns and the application of the recommended conditions, the extent of actual and perceived social impacts could be appropriately managed, and the proposal adequately addresses the identified social impacts (AR para 143). The Department also concluded that the development would be unlikely to significantly impact the local community (AR para 143).

146. The Commission notes the high level of community concern regarding social impacts and has considered the key positive and negative social impacts below.

5.3.1 Traffic and transport

147. The Project's proposed traffic generation is outlined previously in **Section 5.1**. Submissions to the Commission raised concerns with the impact of the traffic generation on the amenity of nearby residents (including through noise and light pollution), the network capacity of the local area and the safety of the local roads.

Commission's findings

148. The Commission considers the Project's operational traffic generation of 100 heavy vehicle movements and 280 light vehicle movements per day to be an unacceptable volume of traffic on Braddon Road. The road directly adjoins existing and potential future residential land uses and is used to service allotments recently created for residential purposes. Potential residential traffic conflicts are considered to be significant, further exacerbated through associated traffic noise impacts.

149. The Commission does not find the proposed mitigation measures, being the preparation of an OTMP, the upgrading of Braddon Road and/or a TNMP to be a suitable means for mitigating the impacts of the traffic on the surrounding sensitive receivers (existing and future).

5.3.2 Air and water quality (microplastics)

150. As outlined in **Section 5.2**, the potential impacts of microplastics on both water and air quality were raised in submissions to the Commission and were also considered by the Commission in terms of social impacts.

151. The Applicant's SIA outlines that "*the direct effects of microplastics on human health is a contested and evolving discourse, yet microplastics contamination has been linked to the absorption of toxic chemicals and pathogens which cling to plastics as they enter the body*" and that "*micro-plastic bioaccumulation continues to raise concerns amongst researchers and health experts*".

152. The Commission notes that as discussed in **Section 5.2** above, there will be a volume of residual microplastics remaining in the wastewater post treatment at both the on-site WWTP and Council's STP. The Department's Social Impact Assessment Guideline (**SIA Guideline**) and its accompanying Technical Supplement provide guidance for assessing the significance of negative and positive social impacts. The SIA Guideline outlines that the evaluation of significance of a potential negative social impact should consider both the likelihood of it occurring and its potential magnitude. The Applicant's SIA outlines the likelihood of human health impacts from air emissions to be 'Unlikely' and the likelihood of water contamination impacts to affect human health to be 'Possible'.

153. The SIA concludes that the potential for human health impacts from air emissions to have a low residual social impact rating following implementation of the proposed mitigation measures, including an Air Quality Management Plan, best practice pollution and odour controls, ongoing monitoring in accordance with the EPL and all emission generating processes to be located within fully enclosed buildings. The SIA also concludes that the potential for water contamination to affect human health to have a low residual social impact rating post implementation of the proposed mitigation measures. These include wastewater treatment plant processes, dewatering and disposal of sludge to an appropriately licenced waste facility, with further details regarding treatment processes to be provided during detailed design and ongoing monitoring in accordance with the EPL.

Commission's findings

154. The Commission has outlined the still emerging understanding of potential impacts of microplastics on human health in **Section 5.2.**

155. The Commission is of the opinion that the uncertainty around the health and environmental impacts of microplastics, combined with the Project's proximity to urbanised areas generates social impacts. The Commission notes that the social impacts of these factors may be different in a locality with fewer environmental and social sensitivities.

5.3.3 Other social impacts

156. Due to the Project's potential impacts, several additional social impacts were raised in submissions to the Commission resulting from the proximity of the Site to residential receivers. Impacts primarily relate to residents' way of life, sense of place and amenity. The Commission has considered the technical assessment of the potential hazards and risks, visual, noise and vibration impacts above in **Section 5.1** and acknowledges the potential social impacts that may result.

Hazards and risks

157. As outlined in **Section 5.1**, the Site is flood prone land and is located in close proximity to land mapped as bush fire prone. The Commission is satisfied that these issues could be adequately addressed and mitigated by the Applicant and through the Department's recommended conditions of consent.

158. In terms of fire risk as also outlined in **Section 5.1**, a significant fire event at such a waste and resource management facility may result in critical environmental and health hazards. The Commission is therefore of the opinion that whilst the risk of fire can be adequately mitigated and managed, a fire event at the Site (in proximity to highly sensitive receivers and the Moss Vale locality generally), would cause significant environmental and health impacts within the urbanised locality.

159. The Commission considers the Project's hazards and risks would be significantly lower in a less urbanised, less constrained area which is more conducive to a large-scale waste and resource management facility such as that proposed.

Visual impacts

160. In **Section 5.1** the Commission finds that the built form, bulk and scale of the development are not a suitable design response to the locality and will adversely impact upon views and vistas of existing and future sensitive receivers within the area. The Commission also considers that these visual impacts contribute to the negative social impacts of the proposal.

Noise and vibration

161. In **Section 5.1** of this report, the Commission finds that the levels of amenity currently enjoyed by sensitive receivers within the locality will be significantly impacted by noise and vibration. The Commission considers this to contribute to adverse social impacts from the Project.

5.3.4 Findings

162. By being located on the interface to a low-density residential area, the Project is in conflict with the character of the locality to the south of the Site. The Project's collective amenity impacts are considered to be detrimental to the quality of life currently enjoyed by residents in the area.

163. The Department has recommended that a SIMP be prepared to manage the Project's residual social impacts, along with a CCC, however the Commission finds this is not an acceptable planning outcome. In particular, residual social impacts include impacts to the psychological health of the community through fear, stress and anxiety resulting from the Project's unknowns concerning microplastics (see **Section 5.2**), and the significant change it will bring to residents' way of life. An effective SIMP and CCC rely heavily on community participation and engagement. As the community is broadly opposed to the Project, the Commission does not accept these are suitable means to mitigate the Project's social impacts.

164. Accordingly, the Commission does not fully accept the position put to it regarding the social impact of the Application by the Applicant and the Department. Given the Commission's findings in relation to the suitability of the Site for the Application and associated land use conflicts (in **Section 5.1**) – that is, that the Application is fundamentally unsuitable for its proposed Site and that this alone is sufficient reason for refusal of the Application – the Commission does not consider it necessary to make further detailed findings with regard to the Application's negative social impacts.

5.4 Public interest

165. Although the Commission has determined to refuse the present Application, there are factors which weigh in favour of the public interest in the Application being approved. The Department's position is that the Project would generate 200 full-time equivalent construction jobs and 140 operational jobs upon completion. The Project also represents an investment of over $88 million in the LGA (AR, Table 15). Most significantly, the development would aid the recycling needs of NSW and contribute to a circular economy.

166. Taken individually, these are all matters which the Commission accepts support approval of the Application. These matters are not, however, the only public interest considerations. Other matters relevant to the public interest are addressed in more detail below, however the Commission's overarching finding is that, on balance, all matters weighing in favour of the Application being approved are, when aggregated, outweighed by the deleterious impacts of the Application set out in this Statement of Reasons.

5.4.1 Community concerns

167. As presented in **Section 4**, there was a strong negative community reaction to the Project, with written submissions by way of objection from 2,809 submitters received by the Commission and the majority of the 124 community members speaking at the public meeting objecting to the proposal. The Commission also notes that the Department's public exhibition of the Project attracted 318 objections in the first submission period and 324 objections is the second period.

168. The volume of objections against the Application was not determinative in the Commission's decision. Rather, the issues raised in the submissions have been considered by the Panel and these matters have been addressed (as relevant), in the Commission's consideration of the Project.

5.4.2 Ecologically Sustainable Development

169. In considering the public interest, the Commission is obliged to have regard to the principles of ecologically sustainable development. The Department in its AR (Table 16) states:

> *"The development is consistent with the principles of ESD as it would utilise industrial land for waste recycling reducing the need for natural resources to create new products.*
>
> *The development incorporates environmental safeguards and would promote social and economic growth by providing infrastructure and jobs. The development also incorporates ESD measures to reduce energy and water consumption including installation of rainwater tanks and solar panels"*

170. The Commission fundamentally agrees with the Department's position, except to note that although utilisation of industrial land for waste recycling is, in principle, an appropriate measure, the present Site proposed for this particular Application is not appropriate.

171. Consideration of ESD involves, among other factors, consideration of the precautionary principle. This principle has two threshold tests before it can be applied, namely:

- a threat of serious or irreversible environmental damage; and
- scientific uncertainty as to the environmental damage.

172. In the present case, one of the two threshold tests is not met and, consequently, the Commission has not applied the precautionary principle to its consideration of the Application.

173. Specifically, the threat of serious or irreversible environmental damage arising from approval of the Application has not been demonstrated, as NSW Health states "*microplastics are ubiquitous and they're an emerging contaminant"* (refer to prior discussion in **Section 5.2** of this report).

174. Accordingly, the precautionary principle was not applied by the Commission (for completeness, the second of the two threshold tests for the precautionary is met by the degree of scientific uncertainty regarding the damage that could be posed by microplastic emissions on human health and the environment).

175. Other ESD principles, specifically inter-generational equity, conservation of biological diversity and ecological integrity, and improved valuation, pricing and incentive mechanisms, did not weigh significantly in the Commission's determination.

176. Accordingly, ESD principles, insofar as they are required to be addressed as part of the Commission's consideration of the public interest, did not constitute a contributory reason for refusing the present Application.

5.5 Objects of the EP&A Act

177. In this determination, the Commission has carefully considered the Objects of the EP&A Act and is not satisfied that the Application is consistent with the Objects of the EP&A Act, specifically the following:

(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;

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment; and

(c) to promote the orderly and economic use and development of land.

178. Noting the above, the Commission finds that the Project:

(a) does not sufficiently promote the social and economic welfare of the community;

(b) is capable, in-principle, of complying with ESD principles as defined by the EP&A Act; and

(c) does not promote and orderly and economic use of land. The Site is not suitable for the Project.

5.6 Other issues

179. The Commission's findings on other issues are summarised in **Table 6**.

Table 6 - Consideration of other issues

Other issue	Commission's findings
Aboriginal cultural heritage	The EIS and RtS included an Aboriginal Cultural Heritage Assessment Report (ACHAR). Archaeological investigations, undertaken in consultation with Registered Aboriginal Parties (RAPs), recorded 14 artefacts across six sites. The ACHAR concluded that there was low artefact density and no subsurface archaeological deposits of conservation value within the areas to be impacted by the development (AR, Table 9). Heritage NSW supported the Applicant's proposed mitigation measures and recommended several conditions should consent be granted, including on-going involvement of the RAPs, salvage and appropriate long and short-term management of items. The Commission finds that the development would not significantly impact Aboriginal cultural heritage and any unexpected finds could be appropriately managed if development consent were granted.
Biodiversity	The Site primarily contains exotic pasture, with some native vegetation located around the dams, and a small number of planted native and exotic trees.

Other issue	Commission's findings
	A Biodiversity Development Assessment Report (BDAR) identified that 0.32ha of poor condition native vegetation would be impacted by the development, including a row of nine planted *Eucalyptus macarthurii* which are listed as endangered under the NSW *Biodiversity* Conservation *Act 2016* (**BC Act**) and the EPBC Act. The BDAR concluded the development would have minimal biodiversity impacts and recommended these be offset by the retiring of six ecosystem credits and 24 species credits. The Biodiversity Conservation and Science Group (**BCS**) of the NSW Department of Climate Change, Energy, the Environment and Water (**DCCEEW**) recommended conditions requiring the mitigation measures specified in the BDAR to be implemented, including the preparation of a Riparian Vegetation Management Plan. The Department noted that the Site is already highly degraded and largely clear of vegetation, including along the two riparian corridors. The existing Eucalyptus trees have been planted and contain no understory. Although some degraded habitat would be removed, it would be offset through the retirement of credits. The Department concluded the biodiversity impacts of the development would be minor and adequately offset by the purchase and retirement of ecosystem and species credits and the revegetation of the two drainage lines. The Commission agrees with the Department's biodiversity assessment.
Southern Highlands Innovation Precinct (SHIP)	The Site is located at the southern boundary of the Moss Vale Enterprise Corridor (**MVEC**), a 1,053 ha area between Moss Vale and New Berrima, which has been identified as an employment precinct since the 1980s (AR para 16). The MVEC is described in the Moss Vale Enterprise Corridor Development Control Plan 2008 (**DCP**) which includes aims of facilitating the development of the area for employment uses and ensuring orderly and economic development of the area (AR para 16). Within the MVEC, the Site is partly within the Enterprise Precinct and partly within a Potential Constraint Area (Water Inundation) (AR para 17). In the AR, the Department noted that DCPs do not apply to SSD applications in accordance with the SEPP Planning Systems, however the Department did have regard to the DCP (AR page 40). The Department concluded that the Project meets the majority of land use controls in the DCP regarding height, minimum lot size, site coverage and measures to reduce water and energy use, as well as the bulk and scale being managed through landscaping, and a detailed flood study being prepared as part of the RtS to address the Site being located in a potential constraint area (AR page 41). Council has recently renamed the MVEC as the Southern Highlands Innovation Park (**SHIP**) and Council is currently preparing a more detailed masterplan for the SHIP with NSW Department of Primary Industries and Regional Development Funding (AR para 18). Council's draft SHIP Masterplan concluded public exhibition in October 2024, with Council outlining that the outcomes of the strategic process are intended to be reported back to Council in early 2025 and once the documents are adopted, a review of the planning framework for the precinct can be finalised. Council's draft SHIP Masterplan defines the area where the development is located to be within the proposed precinct 'Research and advanced manufacturing' and the sub-precinct 'Bio-Tech', with the sub-precinct intended to comprise facilities in the medical device and research fields, in proximity to the ABR facility (AR para 19).

Other issue	Commission's findings
	In the AR, the Department outlined that the SHIP Masterplan is not currently in effect, however the Department is satisfied that the proposed development would provide a satisfactory transition between the residential area and broader SHIP land (AR page 41). The Commission notes that the DCP is not applicable to the Project, and the draft SHIP Masterplan is not in effect, and therefore does not consider the SHIP Masterplan to be a relevant consideration in the determination of the Project. The Commission has considered site suitability in detail in **Section 5.1** above.

6. The Commission's findings and determination

180. The views of the community were expressed through public submissions and comments received (as part of exhibition and as part of the Commission's determination process), as well as in verbal presentations to the Commission at the public meeting. The Commission carefully considered all of these views as part of making its decision.

181. The Commission has also carefully considered the Material before it as set out in **Section 3.1** of this report. Based on its consideration of the Material, the Commission finds that the Project should not be approved for the reasons set out in this Statement of Reasons for Decision dated 24 January 2025.

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Member of the Commission

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