

Addendum to report of 5th November 2015:

JRPP No.	2015HCC014
DA No.	DA 2015/0291
Proposal	RECYCLING FACILITY AND ASSOCIATED SITE WORKS.
Property	80 TOURLE STREET MAYFIELD WEST LOT 1 DP 874109
Recommendation	APPROVAL
Applicant	BENEDICT INDUSTRIES PTY LIMITED
Report By	DEVELOPMENT AND BUILDING SERVICES

Assessment Report and Recommendation

This addendum note has been prepared to address the matters arising following the Joint Regional Planning Panel decision of the 5 November 2015 to defer the consideration of the application to allow for the re-advertising of the proposal in accordance with the Environmental Planning and Assessment Act 1979 (as amended).

Executive Summary

The application was considered by the Joint Regional Planning Panel (JRPP) on the 5 November 2015.

The JRPP determined to defer the matter to allow for the application to be re-advertised in accordance with the provisions of the *Environmental Planning and Assessment Act 1979 (as amended)*.

The proposal has since been re-advertised with notices in the media and on site and individual letters sent to neighbouring properties between the dates of the 13 November 2015 and 15 December 2015. Council received 5 submissions in response to this re-re-notification, 3 in support and 2 raising objections.

All of the submissions received by Council have also been forwarded to the Secretary of the Department of Planning for consideration. The Department of Planning (Secretary's delegate) has confirmed that the JRPP can proceed to make their determination.

Further to the meeting of the 5 November 2015, the applicant made additional submissions to the NSW Environment Protection Authority (EPA) (see attached **Appendix A & B**) and Council (see attached **Appendix C**) requesting amendments and/or clarification of various proposed conditions.

This addendum report considers the additional submissions from the public and the applicant and is to be read in conjunction with the original report. Changes to the conditions previously reported have been highlighted and reproduced in this addendum report.

Recommendation

Grant approval to application reference 2015HCC014 (DA2015/0291) subject to conditions recommended within **Appendix E** below.

1 Background

The application was presented to the Joint Regional Planning Panel on the 5 November 2015 for determination. Following a review of the submissions made to the proposal, the Panel concurred to defer the determination of the application to enable Council the opportunity to re-notify the application in complete accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.

The proposal was re-advertised by means of a site notice, newspaper advertisement and letters to neighbouring and surrounding properties between the dates of 13 November 2015 and 15 December 2015. Council received 5 submissions (3 of which were in support) to this notification.

The comments and issues raised in the submissions have been addressed within Section 2.1 below.

Since the Panel meeting of the 5 November 2015, the applicant requested several amendments and/or clarification of a number of proposed conditions which are also discussed in the flowing addendum report.

This addendum report considers the additional submissions from the public and the applicant and is to be read in conjunction with the original report. Changes to the conditions previously reported have been highlighted and reproduced in **Appendix E** which has been reproduced in full inclusive of amendments detailed in Sections 4.4 and 5.0.

2 Consultation

2.1 Further Public Notification

The JRPP deferred the application to enable Council to undertake additional advertising in accordance with the Environmental Planning and Assessment Act. Specifically, it was identified during the meeting that the public notification site signage was not located 'on the land' as required by Clause 79(1) of the Environmental Planning and Assessment Regulation 2000.

The proposal was re-advertised between 13 November and 15 December 2015 which included a newspaper advertisement, additional site signage and letters to neighbouring and surrounding properties.

The public notification signage was placed in four locations including:

- i) the gate at the McIntosh Drive street frontage,
- ii) the front gate of the subject site proper - 'the land' (at the end of the access easement),
- iii) on the internal gate within the subject site, and
- iv) on the fence on the eastern side of the subject site facing Tourle Street.

The neighbour notification letters were sent to a wider catchment area in the vicinity to ensure all properties which may be affected were notified in accordance with the Regulations.

The applicants have also advised that they had undertaken further community consultation since the JRPP meeting on the 5 November including i) visiting neighbours east of Steel

River Boulevard, ii) follow up meetings and iii) mail out of the applicant's fact sheet to 80+ parties in the neighbourhood.

During this period, Council received 5 submissions in response to this advertisement being 3 in support and 2 objecting to the development. In total, Council has received 3 submissions in support and 11 submissions raising objections to the proposal over the two advertising periods.

All of the submissions received by Council have been forwarded to the Secretary of the Department of Planning for consideration. The Department of Planning (Secretary's delegate) has confirmed that the JRPP can proceed to make their determination.

The matters raised in the submissions during the further public notification period are detailed below:

- (a) Public Notification - Concern regarding public notification and consultation processes.

Comment:

It is considered that the requirements of the *Environmental Planning and Assessment Act, 1979* and associated *Environmental Planning and Assessment Regulations 2000* have been met. The applicants have further advised that they conducted an onsite meeting with the local residents group (Correct Planning & Consultation for Mayfield Group - CPCMG) addressing any questions or concerns, provided a copy of the EIS and contact details of a company representative if any further questions arose.

- (b) Land Use Compatibility/Amenity Impacts - Concern that the proposal is not compatible with the other land uses with Steel River. No other uses within the Steel River area generate any noise, dust or odours. Concern that the proposal will have unreasonable impacts on nearby industrial, commercial and residential uses.

Comment:

This is discussed in detail in the main report of the 5 November 2015. To summarise, the proposal is permissible under Clause 121 of the State Environmental Planning Policy (Infrastructure) and is considered to be an appropriate use of the site.

It is further noted that there is a wide range of businesses which have been approved to operate within the Steel River estate which generate various emissions (noise, air and odour) and these have been previously assessed and are considered to be acceptable subject to conditions of consent.

The air, dust, noise, odour, visual and water quality aspects of the proposal have been assessed and are considered to be acceptable.

- (c) Site Inspection - Concern that the subject site was not inspected by Council and members of the JRPP.

Comment: Both Council staff and the members of the JRPP have conducted a site inspection of the subject site.

- (d) Port Side rail line - Concern that the proposal does not allow for a port side rail line connection.

Comment:

There are no on-going plans at this stage to proceed with a port side rail line.

The State government, via the Department of Planning, has overseen the changing of the planning controls across lands on the southern side of the South Arm of the Hunter River (the lands on which the rail line would possibly be located) on several occasions and at no point has indicated any need or intention to create acquisition zones for such a future rail line (or otherwise preserve the lands on this basis).

It is further noted that the current proposal is of a relatively low capital facility. The development does not involve additional buildings or infrastructure that would be costly to remove and, as such, pose any great impediment to the possibility of any 'future' rail line, if ever pursued by the State government, compared to the other existing businesses in the area or an alternative development on the subject site.

- (e) Traffic - Concern that the development will result in unreasonable traffic impacts. Concern regarding the traffic volumes within the Steel River estate and on Industrial Drive including cumulative impacts.

Comment:

The proposal has been assessed by the Roads and Maritime Services and Council's Senior Development Engineer for traffic related matters and is considered to be acceptable. The roads within the Steel River Estate have been designed for heavy vehicle traffic.

It is further noted that the applicant's traffic report included over-conservative vehicle movement estimates (474 total daily movements inclusive of 260 light vehicle and 214 truck movements) and that these levels are unlikely to be reached for the majority of the operating time for this business. Furthermore, the traffic report modelled the impacts on Industrial Drive based on a 2% background growth as required by the Roads and Maritime Services within the Secretary's environmental assessment requirements (SEARs) for the preparation of the EIS.

It is considered that the proposal is acceptable having regard to its likely traffic impact on Industrial Drive.

- (f) Hours of Operation - Concern regarding the hours of operation.

Comment:

All waste processing will be limited to between the hours of 7am and 6pm. The majority of waste deliveries will be limited to 6am to 6pm. A limited exception to waste deliveries is noted within condition H4 to allow for 24 hour delivery for limited periods to cater for major infrastructure work projects.

- (g) Stormwater/Water Quality - Concern regarding the developments proximity to the Hunter River and potential for pollutants to enter the river system.

Comment:

The water quality aspects of the proposal have been assessed by Council's Senior Development Engineer (Stormwater & Flooding) and are considered to be acceptable.

- (h) Air Pollution - Concern that the development will result in air pollution impacts including dust, airborne rubbish and odour. Concern that the proposal will have an unreasonable impact on the child care centre located on the southern side of Murray Dwyer Circuit.

Comment:

The proposal has been assessed by both the Environment Protection Authority and Council's Senior Environment Protection Officer and is considered to be acceptable. The air and odour assessment undertaken within the EIS shows that the proposal will be well below the NSW EPA criteria in terms of incremental and cumulative particulate concentrations, dust deposition rates and odour concentrations. Various conditions of consent are recommended to ensure these impacts remain minimal.

- (i) Economic Benefits to Newcastle - Will the proposal be a positive benefit to Newcastle? The capital value of the project is too small for the subject site and too few staff.

Comment:

It is considered that the proposal poses, on balance, an economic benefit to Newcastle. As discussed within the main report to the JRPP (Section VI - 'Social & Economic'), the proposal is considered to provide long term economic benefits both in terms of the diversion of waste from landfill (Summerhill) and the actual reuse of materials which have an inherent economic and environmental value. It is advised that inherently a recycling facility of this nature is unlikely to be of a high capital value or high density of staff - these aspects are considered to be acceptable.

3 Referrals

a) NSW Environment Protection Authority

Following the meeting of the 5 November 2015, the applicant made a submission to the NSW Environment Protection Authority (EPA) (**Appendix B**) requesting amendments and/or clarification to a number of the conditions required by the EPA in the General Terms of Approval. The main areas of concern raised by the applicants were in relation to the extent of additional metrological and acoustic monitoring that would be required during the operations and in relation to land contamination.

The EPA provided a response to this submission (**Appendix A**) confirming that metrological and acoustic monitoring requirements will remain unchanged and the requirements to address land contamination will be clarified within the issued EPL such that it is limited to any additional land contamination caused by the proposal not inclusive pre-existing land contamination. Subsequently, the EPA advised that they would not amend the General Terms of Approval previously issued on 21 September 2015, as it would be more appropriate to alter the targets when any Environmental Protection Licence (EPL) is issued. The EPL is the formal licence that is issued by the EPA under the provisions of the *Protection of the Environment Operations Act, 1997*.

b) Ausgrid

The proposal was referred to Ausgrid who did not raise any objections to the proposal.

4 Section 79C Considerations

The following matters provide additional assessment to the Permissibility of the proposed use against the zone objectives; Clarification to the detail of the use; Further assessment with regard to amenity impacts.

(a) Permissibility of the proposed use against the zone objectives

i) State Environmental Planning Policy (Infrastructure) 2007 (SEPP (Infrastructure))

Section 6.4 of the original assessment report detailed the permissibility of the land use having regard to the provisions of Clause 121 of the SEPP (Infrastructure).

It is noted that the SEPP (Infrastructure) does not include any general objectives to which the assessment of proposed land uses could be analysed against, rather the policy is a tool to enable certain land uses to be permissible within detailed land use zones.

ii) Newcastle Local Environmental Plan (NLEP) 2012

The proposal, as noted above and within Sections 6.4 and 6.7 of the original assessment report is not permissible within the IN1 General Industrial zone and relies on the provisions of Clause 121 of the SEPP (Infrastructure) to be a permissible land use.

In consideration of this, the proposal is acceptable having regard to the objectives of the IN1 General Industrial Zone (as extracted below) even though the proposal relies on the SEPP (Infrastructure) for permissibility.

The following objectives are considered:

- *To encourage employment opportunities.*

The proposal provides for local employment opportunities directly related to the recycling centre and offers further employment opportunities indirectly through the encouragement of growth in the recycling industry.

- *To provide a wide range of industrial and warehouse land uses.*
- *To support and protect industrial land for industrial uses.*

The proposal is within scope of the wide range of industrial uses which are appropriate in this industrial area. The current proposal does not displace or reduce the amount of land available for industrial purposes. The current proposal utilises industrial land which has been left vacant for over 10 years.

- *To minimise any adverse effect of industry on other land uses.*

The proposal has been assessed considering all likely amenity impacts the recycling use may have on surrounding land uses. This includes the adjacent industrial land uses and the nearby residential zone. As detailed throughout the report, it is considered that, with appropriate management controls which will be controlled by the EPA that any identified likely impacts could be minimised to appropriate levels.

- Objectives 5 & 6 - *'To allow commercial, retail or other development.....'*

The proposal is for a waste facility. The likely amenity impacts attributed to such uses are considered to be of a form similar to that attributed to industrial land uses and, as such, the fifth and sixth objectives of the zone do not apply to the proposal.

On the basis that this proposed waste use will have an acceptable level of amenity impacts, it is considered that the proposal is an appropriate use of an existing industrial site and is acceptable in terms of the IN1 General Industrial zone objectives.

4.2 Further assessment with regard to amenity impacts

The applicants have responded to several issues which arose in the assessment of the application within the meeting of the 5 November 2015 to clarify the proposal or otherwise provide additional details. Below is a discussion of these matters and the applicants response letter is attached at **Appendix D**.

i) confirmation of no work to access easement

The applicants formally confirm that no works are proposed outside of the application site (Lot 1 DP 874109) and further note that no works are proposed within the access easement owned by Ausgrid. This qualifies the extent of works and any need for additional owners consent.

ii) clarification to biochar production

It is also confirmed that the current application before the JRPP does not involve a proposal to produce biochar. Should the operators intend to proceed with biochar production in the future, this would be subject to a further application.

An appropriate additional condition has been recommended in this regard within Section 5.0 below.

iii) Nominated Integrated approvals with the NSW Office of Water

The applicants formally confirm that the development application is no longer to be assessed as Nominated Integrated Development under the *Water Management Act, 2000*.

It is advised that the NSW Office of Water have confirmed that the proposal did not require any *controlled activity* approval under the *Water Management Act*.

iv) Disposal of waste water

The applicants have further confirmed that the proposed disposal method for truck wash waters has been amended following discussions with Council as follows:

'As described in EIS Section 2.2.5, it is proposed to establish a truck wash area in an existing building on the north of the site. The water used in the truck wash will be treated and recycled within the truck wash system. It was proposed to discharge the excess treated water to the perimeter channel and basin. Following discussions with the Council, it is no longer proposed to discharge treated water to the perimeter channel and basin. Rather excess water will be removed from the recycling facility for treatment at an appropriately licensed facility.'

An appropriate additional condition has been recommended in this regard within Section 5.0 below.

v) Dust

'As summarised in EIS Section 6.1.3, "[t]he assessment found that the predicted incremental and cumulative particulate matter concentrations, dust deposition rates and odour concentrations generated by the proposal are well below the corresponding NSW EPA criteria at assessment locations."

Isopleths showing the predicted incremental dust levels at all locations, including the child-care centre, are provided in Appendix C of the Air Quality and Greenhouse Gas Assessment.

The child-care centre is about 430 m south of the recycling facility boundary, close to air quality assessment location 5 (see Figure 4 of the Air Quality and Greenhouse Gas

Assessment). The closest assessment location south of the recycling facility boundary is CSIRO (air quality assessment location 12), about 170 m from the boundary. All dust criteria will be met at CSIRO (and at air quality assessment location 5) and therefore will be met at the childcare centre.'

vi) Odour

'As stated in EIS Section 6.1.3, "[t]he majority of material received under the proposal will be inert construction and demolition waste. Therefore, the potential for odour emissions will be low. The most likely waste streams with odour potential are green waste and glass material. All odour generating materials will be stored and processed within the main processing shed."

As shown in Table 12 of the Air Quality and Greenhouse Gas Assessment, the maximum 1-second odour level at CSIRO will be 0.3 odour units, well below the criterion/advisory goal of 2 odour units. Therefore, the odour criterion will be met at the most distant child-care centre.'

vii) Acoustic

'As stated in EIS Section 6.1.3, "[t]he proposal is predicted to have a negligible impact on the existing ambient acoustic environment (in isolation and cumulatively with other development) and is not predicted to increase industrial noise levels above the relevant amenity criteria."

As noted above, the child-care centre is about 430m south of the recycling facility boundary. It is close to noise assessment location 8 (see Figure 4.1 of the Noise Impact Assessment).

The rear of the child-care centre is less than 30 m from traffic on Industrial Drive. Noise from the recycling facility will be negligible compared to noise from traffic on Industrial Drive.'

The Noise Impact Assessment was prepared in accordance with all relevant requirements. It includes a review of previous ambient noise measurements and considers noise monitoring undertaken at seven locations specifically for this project.

The Noise Impact Assessment considers noise levels at representative receptors including at residences and at CSIRO.'

The Noise Impact Assessment was reviewed by the EPA. The EPA were satisfied with the Assessment and issued General Terms of Approval (GTA) for the project.

viii) Road traffic noise

A road traffic noise assessment for Industrial Drive in Mayfield West is provided in Noise Impact Assessment. The increased traffic would lead to a <0.5 dB increase in road traffic noise from Industrial Drive, within the 2 dB allowable increase for land use developments as described in the Road Noise Policy.

The application has been assessed by the NSW EPA and Council's Senior Environment Protection Officer and it is considered that the overall proposal is acceptable in terms of air, odour and acoustic impacts, as detailed in Council's original report to the JRPP.

ix) Additional Traffic Assessment

The applicants, following discussions with several businesses within the Steel River estate have raised concern with regard to potential traffic impacts this proposal will have on the surrounding road network.

It is not considered necessary, from a traffic impact perspective, to limit the vehicles routes. The Steel River estate was designed to handle large articulated vehicles and the traffic movements proposed are found to be acceptable along either available route.

Notwithstanding this, the applicant has provided recommended draft conditions to further address any likelihood of potential traffic impacts. It is considered that the conditions are acceptable and adequately consider the concerns of the neighbouring properties raising objections and have therefore been included within the recommended conditions of consent (See draft schedule of conditions F10 and H19).

The applicants also requested amendments of several traffic/engineering conditions (see attached at **Appendix C**). Council's Senior Development Engineer assessed the requests and advised the following:

- Condition C8 - Deletion of this condition is not supported. Support is given to the reduction of car parks to 25 to allow for fluctuations in demand.
- Condition F4 - Support is given to the reduction of car parks to around 25 to allow for fluctuations in demand.
- Condition H12 - Support the amendment of this condition as outlined by the applicant to refer to the car park area rather than the entire site.

The above conditions, as recommended attached at **Appendix E**, have been changed as appropriate.

5 Revised Condition Schedule

Following the meeting of the 5 November 2015, a number of conditions have been amended to correct minor clerical errors; respond to the applicants request to vary draft conditions and; respond to comments from internal and external referral bodies as detailed in the addendum report above.

A complete list of a revised schedule of conditions of consent has been attached at **Appendix E with** changes highlighted, attention is drawn specifically to conditions A2, C8, C11, D3, F4, F10, H12, H17, H19, H20, L4.3, E2.3.

6 Conclusion

This addendum reports on the additional matters raised in the submissions received during the second notification period following the meeting of the JRPP on the 5 November 2015. The report further elaborates on the proposed use in the context of the zone objectives and various matters with regard to likely amenity impacts. In conclusion, the application is supported in its current form subject to a number of conditions to be imposed onto any consent that may be issued.

Appendix A - EPA response to requested condition amendments

Appendix B - Applicants request to EPA for condition amendments

Appendix C - Applicants request to Council for condition amendments

Appendix D - Applicants confirmation of application elements

Appendix E - Revised Conditions of Consent

A GENERAL CONDITIONS

- A1 The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared By	Dated
Site Plan/Layout	Fig 2.1 - Proposed Site Layout	EMM	26/3/15
Landscape Plan	Proj 10944.5 Dwg L01 Rev D	Terras Landscape Architects	09/09/15
Environmental Impact Statement	Version V2	EMM	26/3/15

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

- A2 No biochar production is approved under the terms of this consent. A separate development application is to be made where any biochar production is proposed in the future.

B CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE DEMOLITION OF ANY BUILDING OR CONSTRUCTION

- B1 The Construction Traffic Management Plan is to be prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices - traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.
- B2 Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.
- B3 The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- B4 A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a) Showing the name, address and telephone number of the principal certifying authority for the work
 - b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours and
 - c) Stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- B5 Council's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.

Note: Council's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle.

C CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- C1 A total monetary contribution of \$4,500.00 is to be paid to Council, pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979*, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

- a) This condition is imposed in accordance with the provisions of *The City of Newcastle S94A Development Contributions Plan 2009* (updated version operational from 15 March 2011). A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.
- b) The City of Newcastle S94A Development Contributions Plan 2009 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the s94A Development Contributions Plan 2009.
- c) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation Quarters	Approximate Release Date
September	Late October
December	Late January
March	Late April
June	Late July

Any party intending to act on this consent should contact Council's Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

- C2 All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.
- C3 All stormwater runoff from the proposed development being managed as proposed in the Soil and Water Management report prepared by NPC dated March 2015. Full details are to be included in documentation for a Construction Certificate application.
- C4 All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:
 - a) cross sections through the site where appropriate
 - b) proposed contours or spot levels
 - c) botanical names
 - d) quantities and container size of all proposed trees
 - e) shrubs and ground cover
 - f) details of proposed soil preparation
 - g) mulching and staking
 - h) treatment of external surfaces and retaining walls where proposed
 - i) drainage, location of taps and
 - j) appropriate maintenance periods.

The plan is to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

- C5 The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's compliance certificate (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.
- C6 The proposed floodlighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard 4282:1997 - Control of the obtrusive effects of outdoor lighting. Full details are to be included in the documentation for a Construction Certificate application.
- C7 The building is to be upgraded so as to comply with the Performance Requirements of Part D and E of the Building Code of Australia with full details being included in the application for a Construction Certificate.

- C8 The existing car park being re-linemarked to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities so to provide an area of at least 25 parking spaces . Full details are to be included in documentation for a Construction Certificate application and completed prior to any occupation of the development.
- C9 A minimum of 2 parking bays within the existing on-site parking area are to be allocated and clearly identified for use as disabled parking. Full details are to be included in documentation for a Construction Certificate application.
- C10 The floor of the truck wash and vehicle repair and maintenance shed is to be suitably graded and or bunded across the external door openings to prevent the escape of stored materials, process water or spilt liquids. (Note: Full details in this regard are to be submitted to the Principal Certifying Authority prior to issue of a Construction Certificate.)
- C11 All excess waters from the proposed truck wash area are to be collected into suitable holding tanks and removed from the facility for treatment at an appropriately licensed facility. Full details to be submitted with the required Construction Certificate.

D CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT WORK

- D1 Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of construction in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1* (the "Blue Book") published by Landcom, 2004.
- D2 Prior to the commencement of work, a 3m wide all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.
- D3 All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
- a) Restricting topsoil removal
 - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion
 - c) Alter or cease construction work during periods of high wind and
- D4 Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to Council by a Surveyor registered under the *Surveying and Spatial Information Act 2002* (NSW).
- D5 The Construction Traffic Management Plan is to be prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices - traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.

E CONDITIONS TO BE SATISFIED DURING ANY CONSTRUCTION WORK

- E1 Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet is to:
- a) Be a standard flushing toilet connected to a public sewer, or
 - b) Have an on-site effluent disposal system approved under the *Local Government Act 1993* (NSW), or
 - c) Be a temporary chemical closet approved under the *Local Government Act 1993* (NSW).
- E2 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- E3 All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.
- E4 Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
- E5 Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
- Monday to Friday, 7:00 am to 6:00 pm and
Saturday, 8:00 am to 1:00 pm.
- No noise from construction/demolition work is to be generated on Sundays or public holidays.
- E6 Council's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.
- Note:* Council's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle.
- E7 Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.
- E8 Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Exemption that is permitted to be used as a fill material, in accordance with the provisions of the Protection of the Environment Operations Act 1997 (NSW) and the Protection of the Environment (Waste) Regulation 2005 (NSW).

- E9 Any fill material subject to a Resource Recovery Exemption received at the site must be accompanied by documentation demonstrating that material's compliance with the conditions of the exemption, and this documentation must be provided to Council officers or the Principal Certifying Authority on request.
- E10 Should any Aboriginal relics or artifacts be discovered during the course of work on-site, such work is to cease immediately and the Principal Certifying Authority be informed. In such circumstances, work is not to proceed until the receipt of written consent from the National Parks and Wildlife Service, and the submission of a copy of such consent to the Principal Certifying Authority.

F CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE AND PRIOR TO ANY OCCUPATION OR USE OF THE BUILDING

- F1 Appropriate lighting being provided for the carpark and pedestrian pathways in accordance with AS 1158 - Lighting and AS 4282 - Control of the Obtrusive Effects of Outdoor Lighting, such being installed prior to the occupation of the portion of that premises the subject of this application.
- F2 A site specific Environmental Management Plan is to be prepared and implemented in accordance with table 7.1 of the Statement of Environmental Effects (26 March 2015) by EMM EMGA Mitchell McLennan. A copy of the Plan is to be provided to the Principal Certifier and Council prior to issue of the Occupation Certificate.
- F3 An approved septic tank facility or extended aeration treatment plant is to be installed and an application in this regard being submitted on the relevant form for Council's approval.
- F4 On-site car parking accommodation is to be provided for a minimum of 25 vehicles and such being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent.
- F5 The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.
- F6 All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council's satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.
- F7 A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.
- F8 The premises are to be identified by the provision of house numbers on the building exterior and mailbox such that they are clearly visible from the road frontage.

The minimum numeral height shall be 75mm.

- F9 A Maintenance Manual for all water quality devices is to be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual. The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance. Establishment and maintenance of the water quality devices in accordance with the Maintenance Manual is to be completed prior to the issue the Occupation Certificate. Copies of the Manual are to be kept on site and/or with the maintenance contractor.
- F10 An Operational Traffic Management Plan is to be prepared by a suitably qualified and experienced professional in accordance with Australian Standard 1742.3.2009 – Manual of uniform traffic devices – traffic control for works on roads.

The plan is to provide for:

- i. All traffic generated by the proposed development is, to the maximum extent practical, limited to Steel River Boulevard and McIntosh Drive;
- ii. For regular users of the facility to be notified of the requirement to use Steel River Boulevard and McIntosh Drive when accessing the site and not to use Murray Dwyer Circuit;
- iii. The implementation of all reasonable and feasible measures to minimise the impact of traffic generated by the proposed development on properties fronting Steel River Boulevard and McIntosh Drive; and
- iv. The implementation of all reasonable and feasible measures to minimise the impact of traffic generated by the proposed development on the efficient and safe operation of the local road network, in particular Steel River Boulevard and McIntosh Drive; and managing any conflict between the users of the pathway and emergency access at the northern boundary proposed as part of the approved subdivision of Lot 51 DP 270249

G CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY SUBDIVISION CERTIFICATE

- G1 None

H CONDITIONS WHICH MUST BE SATISFIED DURING THE ONGOING USE OF THE DEVELOPMENT

- H1 All parking bays are to be permanently marked out on the pavement surface.
- H2 All stockpiles occurring as part the operation of the facility are to be no greater in height 7.0 metres maximum.
- H3 The hours of waste processing at the premises are to be not more than from:

DAY	START	FINISH
Monday	7am	6pm
Tuesday	7am	6pm
Wednesday	7am	6pm
Thursday	7am	6pm
Friday	7am	6pm
Saturday	7am	6pm
Sunday	None	None

unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

- H4 The hours of waste delivery and dispatch to and from the premises are to be not more than from:

DAY	START	FINISH
Monday	6am	6pm
Tuesday	6am	6pm
Wednesday	6am	6pm
Thursday	6am	6pm
Friday	6am	6pm
Saturday	6am	5pm
Sunday	7am	3pm

unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

Note: On limited occasions (ie no greater than six times per year and only for a period of less than two weeks in length for each occasion) waste acceptance only is allowed on a 24 hours per day basis to allow the waste generated by major infrastructure projects, that require waste disposal at night, particularly from road and rail works to access the facility. Newcastle City Council is to be notified prior to each of these occasions.

- H5 The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997* (NSW).

Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

- H6 The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997* (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

- H7 No flashing, chasing or scintillating lighting or promotional material of a visually intrusive nature is to be installed or displayed on the exterior of the premises.
- H8 No goods or advertising signs are to be displayed or allowed to stand on the public footpath or street.
- H9 All existing garden and lawn areas on the site are to be kept free of parked vehicles, garbage, trade waste or other extraneous material and being permanently maintained.
- H10 The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.
- H11 All vehicular movement to and from the site is to be in a forward direction.
- H12 Proposed parking areas, vehicle bays, driveways and turning areas are to be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access, respectively. Under no circumstances is the car park in the south-eastern corner of the site to be used for the storage of goods or waste materials.
- H13 Any washing, degreasing or steam cleaning of vehicles, plant, engines, mechanical equipment or parts is to be carried out within a wash bay or dedicated cleaning unit connected to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or to a waste collection system for disposal by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'. Under no circumstances are such activities to be carried out elsewhere on site.
- H14 Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'.
- H15 Under no circumstances is direct vehicle access permitted from the site or McIntosh Drive to Tourle Street.
- H16 Any works carried out on the site that involve the disturbance of (or contact with) soil or groundwater are to be carried out in accordance with the requirements of the report prepared by AECOM Pty Ltd (2 October 2009) *Site Management Plan for subsurface disturbance activities, McIntosh Drive Mayfield NSW*. Ref: N4113204_SMP_Rev4_2Oct09.doc.
- H17 Any servicing or repair work on motor vehicles or mobile plant is to be carried out within a sealed area that has environmental controls appropriate to servicing or repair work being undertaken. This must include bunding where there this work could result in liquids being spilled. Under no circumstances is such work to be carried out within adjacent or nearby streets
- H18 Any oil or chemical being stored in a suitable covered container or vessel kept within a properly bunded area. Waste oil will require regular removal by a recognised waste oil recycler

- H19 Operational Traffic Management Plan approved by the Council under Condition F10 must be implemented throughout the use of the waste facility authorised by this consent.
- H20 All excess waters from the proposed truck wash area to be collected into suitable holding tanks and removed from the facility for treatment at an appropriately licensed facility.

I OTHER AGENCY CONDITIONS

- I1 Compliance in full with the General Terms of Approval under the *Protection of the Environment Operations Act, 1997*, as stipulated by the NSW Environment Protection Authority (dated 16 May 2014 Notice No: 1521788) and detailed below. Full details are to be submitted to the Accredited Certifier prior to the issue of the Construction Certificate:

Administrative conditions

Note: Mandatory conditions for all general terms of approval

A1 Information supplied to the EPA

A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- the development application 2015/0291 submitted to Newcastle City Council in 2015
- "Environmental Impact Statement - Mayfield West Recycling Facility, prepared for Benedicts Recycling Pty Ltd dated 26 March 2015", and
- all additional documents supplied to the EPA in relation to the development, including the letter dated 16 June 2015 to Newcastle City Council "Proposed Recycling Facility, 80 Tourle Street, Mayfield West (20151291)".

A2 Fit and Proper Person

A2.1 The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

Limited Conditions

L1 Pollution of waters

L1.1 Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in and in connection with the carrying out of the development.

L2 Concentration limits

L2.1 For each discharge point or utilisation area specified in the tablets below, the concentration of a pollutant discharged at that point, or applied to that area, must not exceed the concentrations limits specified for that pollutant in the table.

L2.2 Where a pH quality limit is specified in the Table, the specified percentage of samples must be within the specified ranges.

L2.3 To avoid any doubt, this condition does not authorise the discharge or emission of any other pollutants.

Locations - Noise Assessment Benedict Recycling Facility, 80 Tourle Street, Mayfield West by EMGA Mitchell McLennan (Report J14152RP1) dated 26 March 2015

NOISE LIMITS dB(A)

		NOISE LIMITS dB(A)			
Locality	Location	Day	Evening	Night	
		LAeq (15 minute)	LAeq (15 minute)	LAeq (15 minute)	LAmx
<i>R1</i>	<i>Mayfield West</i>	48	40	40	51
<i>R2</i>	<i>Mayfield West</i>	50	41	41	52
<i>R3</i>	<i>Mayfield West</i>	47	39	39	51
<i>R4</i>	<i>Mayfield West</i>	47	39	39	50
<i>R5</i>	<i>Mayfield West</i>	50	42	42	53
<i>R6</i>	<i>Mayfield West</i>	48	41	41	51
<i>R7</i>	<i>Mayfield West</i>	48	41	41	52
<i>R8</i>	<i>Mayfield West</i>	48	40	40	52
<i>R9</i>	<i>Mayfield West</i>	49	42	42	52
<i>R10</i>	<i>Mayfield West</i>	48	41	41	51
<i>R11</i>	<i>Mayfield West</i>	48	42	42	52
<i>R12</i>	<i>Mayfield West</i>	42	41	41	48
<i>R13</i>	<i>Warabrook</i>	40	36	36	47
<i>Mayfield West Primary School</i>	<i>Mayfield West</i>	Internal 35 dB(A)- Noisiest 1 hr period (When in use)			N/A
<i>Church of Christ</i>	<i>Mayfield West</i>	Internal 40 dB(A) LAeq, period (When in use)			N/A
<i>Scout Hall</i>	<i>Mayfield West</i>	Internal 40 dB(A) LAeq, period (When in use)			N/A

Definition:

LA10(15 minute) is the sound pressure level that is exceeded for 10% of the time when measured over a 15 minute period.

L4.2 Waste despatch and deliveries are permitted 6:00am to 6:00pm Monday to Saturday and between 7:00am to 3:00pm on Sundays. Campaign waste deliveries are permitted on a 24 hour basis as approved by the EPA and subject to consent requirements. Waste processing is permitted between 7:00am and 6:00pm Monday to Saturday, with no waste processing occurring on Sundays or Public Holidays.

L4.3 For the purpose of condition L4.1;

- Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sunday and Public Holidays.
- Evening is defined as the period 6pm to 10pm.
- **Night is defined as the period from 10pm to 7am Monday to Saturday and 10pm to 8am Sunday and Public Holidays.**

L4.4 Construction activity is permitted between the hours of 7:00am to 6:00pm Monday to Friday and Saturday 8:00am to 1:00pm, with no construction activity on Sundays and Public Holidays.

L4.5 The noise limits set out in condition L4.1 apply under all meteorological conditions except for the following:

- a) Wind speeds greater than 3 metres/second at 10 metres above ground level; or
- b) Stability category F temperature inversion conditions and wind speeds greater than 2 metres/second at 10 metres above ground level; or
- c) Stability category G temperature inversion conditions.

L4.6 For the purposes of the condition above:

- a) Data recorded by the meteorological station identified as EPA Identification Point <?> must be used to determine meteorological conditions ; and
- b) Temperature inversion conditions (stability category) are to be determined by the sigma-theta method referred to in Part E4 of Appendix E to the NSW Industrial Noise Policy.

L4.7 To determine compliance:

- a) with the Leq(15 minute) noise limits in condition L4.1, the noise measurement equipment must be located:
 - approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises; or
 - within 30 metres of a dwelling facade, but not closer than 3m, where any dwelling on the property is situated more than 30 metres from the property boundary closest to the premises; or, where applicable
 - within approximately 50 metres of the boundary of a National Park or a Nature Reserve. b) with any L_{Amax} noise limits in condition L4.1, the noise measurement equipment must be located within 1metre of a dwelling facade.
- c) with the noise limits in condition L4.1, the noise measurement equipment must be located:
 - at the most affected point at a location where there is no dwelling at the location; or
 - at the most affected point within an area at a location prescribed by conditions L4.x(a) or L4.x(b).

L4.8 A non-compliance of condition L4.1 will still occur where noise generated from the premises in excess of the appropriate limit is measured:

- at a location other than an area prescribed by conditions L4.x(a) and L4.x(b); and/or
- at a point other than the most affected point at a location.

For the purposes of determining the noise generated at the premises the modification factors in Section 4 of the NSW Industrial Noise Policy must be

applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

Operating Conditions

02 Dust

- 02.1** Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.
- 02.2** Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

03 Stormwater/sediment control - Construction Phase

- 03.1** A Soil and Water Management Plan (SWMP) must be prepared and implemented. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction activities. The SWMP should be prepared in accordance with the requirements for such plans outlined in *Managing Urban Stormwater: Soils and Construction* (available from the Department of Housing).

04 Stormwater/sediment control- Operation Phase

- 04.1** A Stormwater Management Plan must be prepared for the development and must be implemented. Implementation of the Plan must mitigate the impacts of stormwater run-off from and within the premises following the completion of construction activities. The Plan should be consistent with the Stormwater Management Plan for the catchment. Where a Stormwater Management Plan has not yet been prepared the Plan should be consistent with the guidance contained in *Managing Urban Stormwater: Council Handbook* (available from the EPA).

05 Waste Management

The Licensee must comply with the conditions as specified in this licence or where no specific conditions outlined in this licence, the licensee must comply with the Protection of the Environment Operations (waste) Regulation 2015.

Monitoring Conditions

M1 Monitoring records

- M1.1** The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

- M1.2** All records required to be kept by the licence must be:

a) in a legible form, or in a form that can readily be reduced to a legible form;

- b) kept for at least 4 years after the monitoring or event to which they relate took place; and
- c) produced in a legible form to any authorised officer of the EPA who asks to see them.

M1.3 The following records must be kept in respect of any samples required to be collected: the date(s) on which the sample was taken:

- a) the time(s) at which the sample was collected;
- b) the point at which the sample was taken; and
- c) the name of the person who collected the sample.

M2 Requirement to monitor concentration of pollutants discharged

M2.1 For each monitoring/ discharge point or utilisation area specified below (by a point number), the applicant must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The applicant must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns:

Point 1

Water and Land

Pollutant	Units of measure	Frequency	Sampling Method
(Data provided as example only)			
Conductivity	uS/cm	daily during discharge	Grab sample
TSS	mg/L	daily during discharge	Grab sample
pH	pH	daily during discharge	Grab sample
Oil and Grease	mg/L	daily during discharge	Grab sample

M2.2 Monitoring for the concentration of a pollutant discharged to waters or applied to a utilisation area required by condition M2 must be done in accordance with: the Approved Methods Publication; or if there is no methodology required by the Approved Methods Publication or by the general terms of approval or in the licence under the Protection of the Environment Operations Act 1997 in relation to the development or the relevant load calculation protocol, a method approved by the EPA in writing before any tests are conducted, unless otherwise expressly provided in the licence.

M3 Requirement to monitor weather

M3.1 The meteorological weather station must be maintained so as to be capable of continuously monitoring the parameters specified in condition M7.2.

M3.2 For each monitoring point specified in the table below the licensee must monitor (by sampling and obtaining results by analysis) the parameters specified in Column 1.

The licensee must use the sampling method, units of measure, averaging period and sample at the frequency, specified opposite in the other columns.

Parameter	Units of Measure	Frequency	Averaging Period	Sampling Method
Air temperature	°C	Continuous	1 hour	AM-4
Wind direction		Continuous	15 minute	AM-2 &AM-4
Wind speed	m/s	Continuous	15 minute	AM-2 &AM-4
Sigma theta		Continuous	15 minute	AM-2 & AM-4
Rainfall	Mm	Continuous	15 minute	AM-4
Relative humidity	%	Continuous	1 hour	AM-4

M4 Requirement to Monitor Noise

M4.1 To assess compliance with Condition L4.1, attended noise monitoring must be undertaken in accordance with Conditions L6.5 and:

- a) at each one of the locations listed in Condition L4.1;
- b) occur quarterly;
- c) during each day, evening and night period as defined in the NSW Industrial Noise Policy for a minimum of:
 - 1.5 hours during the day;
 - 30 minutes during the evening; and
 - 1 hour during the night.
- d) for three consecutive operating days.

Reporting Conditions

R1.1 The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

R2 Noise Monitoring Report

R2.1 A noise compliance assessment report must be submitted to the EPA within 30 days of the completion of the quarterly monitoring. The assessment must be prepared by a suitably qualified and experienced acoustical consultant and include:

- a) an assessment of compliance with noise limits presented in Condition L6.1; and
- b) an outline of any management actions taken within the monitoring period to address any exceedences of the limits contained in Condition L6.1.

Special Conditions

E1 Financial Assurance

- E1.1** A financial assurance in the form of an unconditional and irrevocable and on demand guarantee from a bank, building society or credit union operating in Australia as 'Authorised Deposit-taking Institutions' under the *Banking Act 1959* of the Commonwealth of Australia and supervised by the Australian Prudential Regulatory Authority (APRA) must be provided to the EPA prior to the issue of the licence. The financial assurance must be in favour of the EPA in the amount of one hundred and fifty thousand dollars (\$150,000). The financial assurance required to secure or guarantee funding for works or programs required by or under this licence.
- E1.2** The licensee must provide to the EPA, along with the original counterpart guarantee, confirmation in writing that the financial institution providing the guarantee is subject to supervision by the Australian Prudential Regulatory Authority (APRA).
- E1.3** The financial assurance must contain a term that provides that any money claimed can be paid to the EPA or, at the written direction of the EPA, to any other person.
- E1.4** The financial assurance must be maintained during the operation of the facility and thereafter until such time as the EPA is satisfied the premises is environmentally secure.
- E1.5** The financial assurance must be replenished by the full amount claimed or realised if the EPA has claimed on or realised the financial assurance or any part of it to undertake a work or program required to be carried out by the licence which has not been undertaken by the licence holder.
- E1.6** The EPA may require an increase in the amount of the financial assurance at any time as a result of reassessment of the total likely costs and expenses of rehabilitation of the premises.
- E1.7** The licensee must provide to the EPA the original counterpart guarantee within five working days of the issue of:
- a) the financial assurance required by condition E1.1, and
 - b) the adjusted financial assurance by condition E1.x and E1.X
- E1.8** The EPA may claim on a financial assurance under s303 of the POEO Act if a licensee fails to carry out any work or program required to comply with the conditions of this licence.

E2 Environmental Management Obligations

- E2.1** While the licensee's premises are being used for the purpose to which the licence relates, the licensee must:
- a) Clean up any spill, leak or other discharge of any waste(s) or other material(s) as soon as practicable after it becomes known to the licensee or to one of the licensee's employees or agents.

- b) In the event(s) that any liquid and non-liquid waste(s) is unlawfully deposited on the premises, such waste(s) must be removed and lawfully disposed of as soon as practicable or in accordance with any direction given by the EPA.
- c) Provide all monitoring data as required by the conditions of this licence or as directed by the EPA.

E2.2 In the event of an earthquake, storm, fire, flood or any other event where it is reasonable to suspect that a pollution incident has occurred, is occurring or is likely to occur, the licensee (whether or not the premises continue to be used for the purposes to which the licence relates) must:

- a) make all efforts to contain all firewater on the licensee's premises,
- b) make all efforts to control air pollution from the licensee's premises,
- c) make all efforts to contain any discharge, spill or run-off from the licensee's premises, d) make all efforts to prevent flood water entering the licensee's premises,
- e) remediate and rehabilitate any exposed areas of soil and/or waste,
- f) lawfully dispose of all liquid and solid waste(s) stored on the premises that is not already securely disposed of,
- g) at the request of the EPA monitor groundwater beneath the licensee's premises and its potential to migrate from the licensee's premises,
- h) at the request of the EPA monitor surface water leaving the licensee's premises; and i) ensure the licensee's premises is secure.

E2.3 After the licensee's premises cease to be used for the purpose to which the licence relates or in the event that the licensee ceases to carry out the activity that is subject of this licence, that licensee must:

- a) **remove and lawfully dispose of all liquid and non-liquid waste stored on the licensee's premises;** and
- b) rehabilitate the site, including conducting an assessment of and if required remediation of any site contamination.

Attachment-Mandatory Conditions for all EPA licences

Administrative conditions

Other activities

(To be used on licences with ancillary activities)

This licence applies to all other activities carried on at the premises, including:

- Waste Storage
- Waste Processing (non-thermal treatment)
- Resource Recovery

Operating conditions

Activities must be carried out in a competent manner

Licensed activities must be carried out in a competent manner. This includes:

- a) the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- b) the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

Maintenance of plant and equipment

All plant and equipment installed at the premises or used in connection with the licensed activity:

- d) must be maintained in a proper and efficient condition; and
- e) must be operated in a proper and efficient manner.

Monitoring and recording conditions

Recording of pollution complaints

The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

The record must include details of the following:

- the date and time of the complaint;
- the method by which the complaint was made;
- any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- the nature of the complaint;
- the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
- if no action was taken by the licensee, the reasons why no action was taken.

The record of a complaint must be kept for at least 4 years after the complaint was made.

The record must be produced to any authorised officer of the EPA who asks to see them.

Telephone complaints line

The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.

The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.

This condition does not apply until 3 months after this condition takes effect.

Reporting conditions

Annual Return documents

What documents must an Annual Return contain?

The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:

- a) Statement of Compliance; and
- b) Monitoring and Complaints Summary.

A copy of the form in which the Annual Return must be supplied to the EPA accompanies this licence. Before the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

Period covered by Annual Return

An Annual Return must be prepared in respect of each reporting, except as provided below

Note: The term "reporting period" is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.

Where this licence is transferred from the licensee to a new licensee,

- a) the transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
- b) the new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

Note: An application to transfer a licence must be made in the approved form for this purpose.

Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on

- a) in relation to the surrender of a licence- the date when notice in writing of approval of the surrender is given; or
- b) in relation to the revocation of the licence- the date from which notice revoking the licence operates.

Deadline for Annual Return

The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

Notification where actual load can not be calculated

(Licences with assessable pollutants)

Where the licensee is unable to complete a part of the Annual Return by the due date because the licensee was unable to calculate the actual load of a pollutant due to circumstances beyond the licensee's control, the licensee must notify the EPA in writing as soon as practicable, and in any event not later than the due date.

The notification must specify:

- a) the assessable pollutants for which the actual load could not be calculated; and
- b) the relevant circumstances that were beyond the control of the licensee.

Licensee must retain copy of Annual Return

The licensee must retain a copy of the annual return supplied to the EPA for a period of at least 4 years after the annual return was due to be supplied to the EPA.

Certifying of Statement of Compliance and Signing of Monitoring and Complaints Summary

Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- a) the licence holder; or
- b) by a person approved in writing by the EPA to sign on behalf of the licence holder.

A person who has been given written approval to certify a Statement of Compliance under a licence issued under the Pollution Control Act 1970 is taken to be approved for the purpose of this condition until the date of first review this licence.

Notification of environmental harm

Note: The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment as soon as practicable after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act

Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.

The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

Written report

Where an authorised officer of the EPA suspects on reasonable grounds that:

- a) where this licence applies to premises, an event has occurred at the premises; or
- b) where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence,

and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.

The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.

The request may require a report which includes any or all of the following information: the cause, time and duration of the *event*;

- c) the type, volume and concentration of every pollutant discharged as a result of the event;
- d) the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and
- e) the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the

- licensee has been unable to obtain that information after making reasonable effort;
- f) action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
 - g) details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
 - h) any other relevant matters.

The EPA may make a written request for further details in relation to any of the *above* matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

General conditions

Copy of licence kept at the premises or on the vehicle or mobile plant

A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies. The licence must be produced to any authorised officer of the EPA who asks to see it.

The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.

J ADVISORY NOTES

- J1 Any proposed business identification sign or advertising sign should be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application approved prior to erection or placement in position.
- J2 It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- J3 Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- J4 Prior to commencing any construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* (NSW) (the 'Act') are to be complied with:
 - a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act
 - b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and
 - c) Council is to be given at least two days' notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.

- J5 A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.
- J6 Development applications are not assessed against the provisions of the Building Code of Australia. A Section 96 modification under the *Environmental Planning and Assessment Act 1979* (NSW) will be required if design amendments that cause the proposal to be inconsistent with the development consent are necessary to comply with the provisions of the Building Code of Australia.
- J7 Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000* (NSW).
- J8 A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- J9 An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* (NSW) is to be submitted to Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- J10 It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- J11 Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979* (NSW), which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.

END OF CONDITIONS