

<b>DATE OF DETERMINATION</b>	20 November 2019
<b>PANEL MEMBERS</b>	Pamela Westing (Chair), Stephen Gow, John Griffin, Sharon Cadwallader and Keith Williams
<b>APOLOGIES</b>	Garry West and Eoin Johnston
<b>DECLARATIONS OF INTEREST</b>	David Wright declared a conflict of interest as he has participated in briefings and discussions on the matter.

Public meeting held at Ballina Shire Council on 20 November 2019, opened at 6:08 p.m. and closed at 8:08 p.m.

#### **MATTER DETERMINED**

2019NTH007 – Ballina – DA 2017/600 - 19-21 Northcott Crescent, Alstonville – expansion of existing resource recovery facility (as described in Schedule 1)

#### **PANEL CONSIDERATION AND DECISION**

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

#### **Development application**

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was 3:2 in favour, against the decision were Sharon Cadwallader and Keith Williams.

#### **REASONS FOR THE DECISION**

- The development is permissible in the zone and the provisions of *State Environmental Planning Policy 33 - Hazardous and Offensive Development* were comprehensively addressed.
- The Council assessment report comprehensively addressed issues identified in the Secretary's Environmental Assessment Requirements, particularly acoustic and air quality impacts.
- The Environment Protection Authority has issued General Terms of Approval.
- Amendments to conditions clarify the scope of the consent in relation to the previous consent and the required air quality monitoring.

Sharon Cadwallader and Keith Williams disagreed with the majority decision for the following reasons:

- The public submissions and site inspection raised public health and public safety concerns that were not addressed in the development application to Cr Cadwallader's or Cr Williams' satisfaction
- The existing and proposed processes are not sufficient to ensure that hazardous materials, like asbestos, never enter the processing plant
- A modern, sophisticated, enclosed crushing plant would be a more suitable development to provide this necessary service: it would ensure that employees are not exposed to excessive dust and noise and would be more appropriate for the bulk, scale and intensity of this operation

## **CONDITIONS**

The development application was approved subject to the conditions in the council assessment report with the following amendments.

- Condition 1 to clarify the relationship to the previous consent
- Condition 2 to clarify that only relevant conditions are required to be completed prior to commencement of the use
- Condition 20 (5th dot point added) to require the northern elevation of Shed 3 to be fully closed to achieve acoustic objectives
- Condition 20 (last dot point) to clarify details of the complaints register
- Condition 55 to expand on the matters to be addressed in the Dust Management Plan to address the NSW EPA General Terms of Approval
- Condition 67 to require certification of dust monitoring to be reported to Ballina Shire Council, and monitoring specifically for asbestos be required.
- Condition 68 (last dot point added) to limit outdoor pulverising to 30 minutes per day.


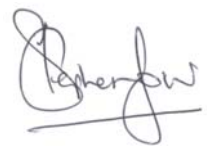

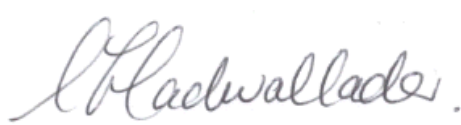

The amended conditions are attached as Schedule 2.

## **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Concerns raised about Council enforcement of existing operations and current activities on site
- Dust generation, monitoring and impact
- Adequacy of proposed sprinkler system
- Impact on the environment, including on Maguires Creek water catchment area
- Handling, management and potential mis-sorting of hazardous materials, including asbestos
- Insufficient floor area for proposed waste volumes and activities
- Crushing of materials on site and destination of material crushed on the site
- Noise impacts
- Sufficiency and accuracy of supplied reports
- Notification process
- Proper categorisation of the proposed development and site
- Impact on property values
- Traffic and parking issues
- Suitability of site, particularly given residential uses in the vicinity

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting. The panel notes that in addressing these issues amended conditions will clarify the operating requirements for the development and facilitate on-going monitoring of the development.

PANEL MEMBERS	
 Pamela Westing (Chair)	 Stephen Gow
 John Griffin	 Sharon Cadwallader
 Keith Williams	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019NTH007 – Ballina – DA 2017/600
2	PROPOSED DEVELOPMENT	Expansion of an existing resource recovery facility to process up to 30,000 tonnes per annum of construction waste and to carry out associated building, infrastructure and earthworks
3	STREET ADDRESS	19-21 Northcott Crescent, Alstonville
4	APPLICANT/OWNER	Newton Denny Chappelle
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - waste management facility or works

6	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy No 33- Hazardous and Offensive Development</li> <li>○ State Environmental Planning Policy No 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ Ballina Local Environmental Plan 2012</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Ballina Development Control Plan 2012</li> <li>○ Ballina Shire Roads Contributions Plan (Section 7.11 Roads Plan)</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Council assessment report: 6 November 2019</li> <li>• Written submissions during public exhibition: 63</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ In support – Nil</li> <li>○ In objection – Marian Meider, Steve Connelly (provided written submission), Ron Birch, Kirra George-son, Wayne Baird, Melissa Underwood, Sarah Johnston, Jeffrey Gibbs, Peter Felsch, Jay D’Agostino, Dr Sharon Parry</li> <li>○ Council assessment officer - Andrew Smith, Rachel Jenner, Darryl Anderson</li> <li>○ On behalf of the applicant – Karina Vikstrom, Tim Fitzroy, Jay Carter</li> </ul> </li> </ul>

8	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>Site inspection: 20 November 2019 <ul style="list-style-type: none"> <li><u>Panel members</u>: Pamela Westing (Chair), Stephen Gow, John Griffin, Sharon Cadwallader and Keith Williams</li> <li><u>Council assessment staff</u>: Georgia Lee, Andrew Smith, Alastair Weallans, Rachel Jenner, Darryl Anderson (consultant), Michelle Clifford (safety escort for the site)</li> </ul> </li> <li>Final briefing to discuss council's recommendation, 20 November 2019, 3:30 p.m. Attendees: <ul style="list-style-type: none"> <li><u>Panel members</u>: Pamela Westing (Chair), Stephen Gow, John Griffin, Sharon Cadwallader and Keith Williams</li> <li><u>Council assessment staff</u>: Georgia Lee, Andrew Smith, Rachel Jenner, Alastair Weallans, Darryl Anderson (consultant)</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report

SCHEDULE 2			
<b>GENERAL</b>			
1. Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including:			
Plans prepared by	Drawing No.	Drawing Title	Dated
Newton Denny Chapelle	17/070, Rev F	Plan 5 – Proposed Development Overview	18 December 2018
Newton Denny Chapelle	17/070, Rev F	Plan 5A – Proposed Development Detail Builders Waste	18 December 2018
Newton Denny Chapelle	17/070, Rev F	Plan 5B – Proposed Development Detail Concrete, Brick and Tile	18 December 2018
Newton Denny Chapelle	17/070, Rev F	Plan 5C – Proposed Development Detail Crushed Aggregate Testing and Storage	18 December 2018
Newton Denny Chapelle	17/070, Rev F	Plan 5D – Proposed Aggregate Bays & Wash Bay	18 December 2018
Newton Denny Chapelle	17/070, Rev F	Plan 6 – Concept Shed Design Shed 4	18 December 2018

Newton Denny Chapelle	17/070, Rev E	Plan 7 – Existing Shed Design Shed 3	18 December 2018
Newton Denny Chapelle	17070-DA-PL-08, Rev A	Plan 8 – Construction Staging Plan	19 December 2018
Newton Denny Chapelle	17070-DA-CI-07, Rev A	Plan 7 – Stormwater Catchments Plan	5 December 2018
Newton Denny Chapelle	17070-DA-CI-08, Rev A	Plan 8 – Stormwater Treatment Plan	20 December 2018
Newton Denny Chapelle	17070-DA-CI-09, Rev A	Plan 9 – Bulk Earthworks Plan	5 December 2018
Newton Denny Chapelle	17070-DA-CI-10, Rev A	Plan 10 – Bulk Earthworks – Section A	5 December 2018
Newton Denny Chapelle	17070-DA-CI-11, Rev A	Plan 11 – Bulk Earthworks – Section B	5 December 2018
Newton Denny Chapelle	17070-DA-CI-13, Rev A	Plan 13 – Engineering Services Plan	5 December 2018
Newton Denny Chapelle	17070-DA-CI-14, Rev A	Plan 14 – Civil Works Plan	5 December 2018
<b>Report prepared by</b>	<b>Report Title</b>		<b>Dated</b>
Newton Denny Chapelle	Response to information requests within letter dated 20 December 2018		20 December 2018
Newton Denny Chapelle	Environmental Impact Statement		October 2017 (as amended by ‘Update to Section 3.2 – Proposed Development’ dated December 2018)
Newton Denny Chapelle	Response to Requests for Additional Information		20 December 2018
Blackwood Ecological Services	Flora and Fauna Assessment		23 March 2017
Everick Heritage Consultants	Cultural Heritage Assessment		21 March 2017
Newton Denny Chapelle	Engineering Services Report (Revision D)		14 November 2018
Tim Fitzroy & Associates	Waste Management Plan		9 August 2017
CRG Acoustics	Noise Impact Assessment		20 December 2018
Tim Fitzroy & Associates/Heilig & Partners	Vibration Assessment		9 August 2017
Tim Fitzroy & Associates	Air Quality Assessment		20 December 2018
Tim Fitzroy & Associates	SEPP 33 Assessment		9 August 2017

except as modified by any condition in this consent. In the event of any inconsistency between development consent 2012/88 and development consent 2017/600 the terms and conditions of development consent 2017/600 will prevail.

## 2. Commencement of occupation or use

Occupation or use of the premises for the purposes authorised by this consent shall not commence until all relevant conditions of this consent have been complied with and a final Occupation Certificate has been issued by the Principal Certifying Authority (PCA), unless alternative arrangements have been made with Council.

**3. Environmental Protection Licence**

Prior to any works being undertaken within the premises to which this development consent applies, the applicant shall have applied and obtained from the New South Wales Environment Protection Authority an Environment Protection Licence to operate the proposed business within the premises.

**4. No advertising signage to be displayed**

No advertising sign(s) is to be erected or displayed without prior submission of a Development Application to, and approval from, Council, unless the proposed signage is consistent with the terms and conditions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

**5. Roof material**

The roof material of the proposed development shall have low reflective index characteristics and the colour shall not be prominent against the background. As far as practicable, finishes should comprise earthy or subdued tones. Unpainted zincalume, white, off white and light grey are not acceptable.

**6. Building to comply with NCC**

All aspects of the building design shall comply with the performance requirements of the National Construction Code (NCC) so as to achieve and maintain acceptable standards of structural efficiency, safety, health, and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) complying with the deemed to satisfy provisions,
- (b) formulating an alternative solution which:
  - (i) complies with the performance requirements, or
  - (ii) is shown to be at least equivalent to the deemed to satisfy provision.
- (c) combination of (a) and (b).

Details are to be included with the plans and specification accompanying a Construction Certificate application.

**7. Driveway construction**

The driveways and parking bays within the development are to be constructed of reinforced concrete or similar paved material. All trafficable parts of the site and areas used for storage of equipment and materials, including skip bins etc, shall be sealed to prevent dust generation. Gravel areas where proposed must be of all weather, dust free construction. All driveway areas are to be adequately graded and drained to stormwater treatment areas. These areas must discharge to Council's stormwater system to ensure that stormwater is not directed onto adjoining properties.

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE (Building)**

*The following conditions in this section of the consent must be complied with prior to the issue of any Construction Certificate relating to the approved development.*

**8. Long Service Levy**

In accordance with Section 6.8(1)(b) of the EP & A Act (formerly Section 109F) a Construction Certificate will not be issued with respect to the plans and specifications for construction works until any long service levy payable under section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid. Currently this rate is 0.35% of the cost of the construction works costing \$25,000 or more. Works less than \$25,000 are not subject to the levy.

## **9. Construction Certificate**

Prior to construction of the approved development it is necessary to obtain a Construction Certificate. Either Council or an appropriately accredited certifier may issue a Construction Certificate. A separate application, complete with detailed plans and specifications, must be made to the Principal Certifying Authority for a Construction Certificate.

## **10. Trade Waste**

The applicant shall complete and submit to Council a Trade Waste application and pay the associated fee. Please note that this application may be subject to the Department of Industry concurrence process.

A Trade Waste report should be undertaken by suitably competent and qualified trade waste consultant addressing all trade waste measures.

The following information is to be included within the Trade Waste Report:

- The proposed rate of discharge, including:
  - average per day, and maximum per day and per hour
  - Hours of the day during which discharge takes place.
- Site plan, including:
  - Location and details of proposed liquid trade waste pre-treatment facilities
  - details on pre-treatment equipment maintenance
  - proposed connection point to the sewerage system
  - exclusion of stormwater to sewerage system
- Physical and chemical characteristics of the discharge, including:
  - nature of source
  - expected maximum and average concentrations of pollutants, and
  - temperature and pH
  - Material Safety Data Sheets (MSDS) shall also be supplied for assessment of products that can be found in the trade waste proposed for discharge.

## **11. Car parking and vehicular access**

The development not including the tyre shop (DA 2016/285) shall provide 21 parking spaces on-site. The design of all car parking and vehicular accesses are to be in accordance with the Australian Standard AS/NZS 2890.1:2004. Design plans are to be certified by a suitably qualified professional and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

## **12. Car parking for disabled**

The design of all disabled car parking spaces are to be in accordance with Australian Standard AS/NZS 2890.6: 2009. Design plans are to be certified by a suitably qualified professional and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

## **13. Vehicle Management Plan**

Prior to the issue of the Construction Certificate, the applicant shall submit a Vehicle Management Plan for vehicles servicing the site. The plan must be in accordance with AS2890.2 and include the following minimum requirements:

- The maximum size of vehicles servicing the site.
- The service vehicle travel path through the site and associated swept path analysis.
- Restrictions on the hours vehicles can service the development.

## **14. Landscape plan**



Prior to issue of a Construction Certificate, a landscape plan is to be submitted to and approved by Council. The landscape plan shall include additional plantings on the northern portion of the site and shall consist of local endemic species only.

**15. Stormwater management plan**

The provision of stormwater controls on site shall be in accordance with the Water Sensitive Design requirements of Council's Development Control Plan Chapter 2 – Section 3.9 – Stormwater Management and generally in accordance with the Site Stormwater Management Plan by Newton Denny Chappelle contained within the Engineering Services Report dated 14 November 2018. The stormwater management plan shall make provision for the attenuation and the spreading of flows such that flows emanating from the site match the predevelopment condition. Measures are to be incorporated into the design which prevent the discharge of concentrated stormwater from the site and ensure the receiving environment is protected against erosion for all storm events up to the 1% AEP event. Overland flow paths must not be impeded by structures or landscaping. A detailed design must be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.

**16. Stormwater maintenance plan**

The applicant shall be required to develop a Stormwater Maintenance Plan to ensure that Stormwater Controls are maintained in an appropriate condition such that the identified treatment and attenuation targets stipulated within the Stormwater Management Plan are achieved on an on-going basis. A report must be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

**17. Review of existing stormwater controls**

Prior to the issue of a construction Certificate, certification must be provided to the Principal Certifying Authority that all stormwater works required under DA 2012/88.3 (as modified on 3 October 2013) have been provided in accordance with approved Construction Certificate Plan and approved Stormwater Management Plan. This certification must be provided by a registered certified practicing engineer competent in the field of stormwater design and familiar with all aspects of the project. If the review identifies deficiencies in the existing stormwater systems, then the rectification works that are required are to be included into the design plans and approved as part of this Construction Certificate.

**18. Covering of waste – stormwater contamination**

All waste material is to be covered whilst it is processed and stored on site to prevent the contamination of stormwater. In the pulverisation area, large concrete items are required to be stored under a tarpaulin. Overland flow paths are to be directed away from waste storage areas to mitigate the risk of stormwater contamination. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issuing of any Construction Certificate.

**19. Sealing of trafficable areas**

All trafficable parts of the site and areas used for storage of equipment and materials, including skip bins etc, shall be sealed to prevent dust generation, details to be included in Construction Certificate plans.

**20. Acoustic treatment**

Identified acoustic construction measures, as specified in recommendations of Environmental Noise Impact Assessment dated 20 December 2018 prepared by CRG Acoustics, shall be incorporated into the final construction plans.

- The facility hours of operation to be limited to the following:
  - Vehicles will operate from the site 6am to 6pm Monday to Friday and 6am to 1pm Saturday.

- Sorting, pulverising, crushing and screening will be limited to 7am to 6pm Monday to Friday, with not more than 5 hours of crushing on any given day.
- Compression of waste material through impactive means (i.e. by excavator bucket actively impacting materials into skip bins) is not to be undertaken. Waste material can be compressed if the excavator bucket is laid on the materials then pressed down, avoiding impacts.
- Trucks and heavy equipment (i.e. loaders) are to be restricted to a posted speed limit of 5km/h. Signage is to be erected onsite at prominent locations (i.e. along western access road/driveway).
- Dump trucks are to be switched off when being loaded.
- The northern elevation of Shed 3 is to be repaired and sealed and the existing roller door to be permanently removed and replaced with appropriate cladding.
- Sheds 3 and 4 are to be constructed as per the plans and have no gaps or holes between the connections with the roof and walls and with the walls and ground to ensure a minimum noise reduction of 13 dB is achieved along walls which have no openings (i.e. northern and southern walls of Shed 3 and the western and southern walls of Shed 4).
- The southern eastern and western walls of the aggregate storage bin shed are to be of solid construction (i.e. tilt-up concrete panels) and be a height of 6 metres.
- Onsite drivers/operators (i.e. bobcat, truck, loaders, excavators and crusher/screen) be instructed to operate equipment in a manner that does not generate unnecessary noise, through avoiding excessive revving of motors, and avoidance of impact with solid objects.
- No alarm bells or paging systems should be used. Cordless telephones are a suitable substitute.
- Permanent onsite vehicles have a modified beeper installed (commonly termed a 'croaker', as they sound similar to a frog croak).
- Onsite machinery are to be fitted with exhaust controls that minimise noise pollution in accordance with current legislation and industry best practices.
- All engines are to be maintained and tuned to manufacturer's specifications so as to minimise exhaust emissions.
- Provide the nearest noise sensitive receiver (refer to Figure 2 in Appendix A) with a contact number should any problem arise. In the event of a noise complaint, the complaint must be dealt with sensitively and respectfully, with the noise abated as soon as possible. A complaint register must also be completed and stored (refer to Appendix B of the Environmental Noise Impact Assessment dated 20 December 2018 prepared by CRG Acoustics for an example of a complaint register).

## 21. Acoustic treatment

The acoustic consultant is to provide certification to the Principal Certifying Authority (PCA) prior to the release of the Construction Certificate, that the recommended acoustic treatments have been incorporated into the construction plan.

## 22. Car wash bay

The car wash bay shall be covered, bunded and drained to sewer via a Council approved pre-treatment device. Full details are to be provided in a Section 68 application and shall be approved by Council's Trade Waste Officer prior to the issue of the Construction Certificate. Drainage details are to be incorporated into the hydraulic plans.

### 23. Developer contributions

Prior to issue of a Construction Certificate where building work is proposed, payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 94 of the Environmental Planning & Assessment Act, 1979:

<b>Contribution Plan/Development Servicing Plan</b>	<b>Adopted</b>
Cumbalum Urban Release Area Precinct A Contributions Plan 2015	26 February 2015
Ballina Shire Roads Contribution Plan Version 4.1	26 July 2018
Ballina Shire Open Spaces and Community Facilities Contributions Plan 2016	1 January 2017
Ballina Shire Carparking Contributions Plan 2014	14 May 2014
Ballina Shire Heavy Haulage Contribution Plan	27 October 2011

The Contribution Plans provide for the indexing of contribution amounts and are also subject to amendment. The contribution rates payable will be the rates that are applicable at the time payment is made. Copies of the Contribution Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website [www.ballina.nsw.gov.au](http://www.ballina.nsw.gov.au).

The Contribution amounts applicable at the time this consent is issued are as per Schedule 2 (**attached**).

### 24. Developer charges

Prior to issue of a Construction Certificate where building work is proposed, payment to council of non-refundable monetary charges shall be made towards the provision of bulk water supply, water reticulation and sewer infrastructure which are required as a result of the development in accordance with the charges set by Ballina Shire Council and Rous Water as water supply authorities under the Water Management Act 2000. The amount payable will be the assessed additional equivalent tenements generated by the development multiplied by the charge applicable at the time of payment.

Certificates of Compliance pursuant to Section 306 of the Water Management Act 2000 shall be deemed to have been issued where the required charges have been paid and all construction works required by the water supply authority for the development have been completed.

The charges are currently guided by the following development servicing plans:

<b>Water Supply Authority</b>	<b>Contribution Plan/Development Servicing Plan</b>	<b>Adopted</b>
Ballina Shire Council	Ballina Shire Council Water Supply Infrastructure Development Servicing Plans	27 February 2015
Ballina Shire Council	Ballina Shire Council Sewerage Infrastructure Development Servicing Plans	27 February 2015
Rous Water	Development Servicing Plan for Bulk Water Supply	15 June 2016

The Development Servicing Plans provide for the indexing of charges and are also subject to amendment and replacement. The charges payable are the charges set by the water supply

authorities at the time payment is made. Copies of the Development Servicing Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website [www.ballina.nsw.gov.au](http://www.ballina.nsw.gov.au).

It should be noted that Ballina Shire Council acts as Rous Water's agent in the collection of Rous Water Bulk Water Supply Charge for developments that are connected to the Ballina Shire water supply.

The charges applicable at the time this consent is issued are included in Schedule 2 (**attached**).

## **25. Fire Safety Schedule**

Prior to the issue of the Construction Certificate, either the Council or an appropriately accredited certifier shall issue a Fire Safety Schedule for the proposed development. In accordance with Clause 168(1) of the *Environmental Planning and Assessment Regulation 2000*, a Fire Safety Schedule must specify the fire safety measures (both existing and proposed to be installed) that should be implemented in the building premises. The Fire Safety Schedule must deal with the whole of the building and not only to the part of the building to which this consent applies as provided for in Clause 168(3), *Environmental Planning and Assessment Regulation 2000*.

**It is an offence to fail to provide a Fire Safety Schedule in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*.**

## **PRIOR TO CONSTRUCTION WORK COMMENCING**

*The following conditions in this section of the consent must be complied with prior to commencement of construction works relating to the approved development.*

## **26. Notice of Commencement and Appointment of Principal Certifying Authority**

Where Council is not nominated as the Principal Certifying Authority (PCA), the person having the benefit of this development consent is to submit to Council the following information:

- Written notification of the name and details of the Principal Certifying Authority (PCA); and
- The date of commencement and details of the Development Consent and associated Construction Certificate.

The above information is to be submitted at least two days prior to the commencement of any works, in accordance with the requirements of Section 81A(2) of the Environmental Planning & Assessment Act 1979 (as amended).

## **27. Traffic control**

All traffic control shall be in accordance with the Roads and Maritime Services "Traffic Control at Work Sites Manual". A Traffic Control Plan must be prepared and submitted to Council by a person holding a current "Design & inspect Traffic Control Plan" qualification. The traffic control plan must be certified and include the designers Name & Certificate Number. Details are to be submitted to Council prior to the commencement of construction.

## **DURING CONSTRUCTION**

*The following conditions in this section of the consent must be complied with during the course of carrying out the construction works relating to the approved development.*

## **28. Resource recovery exemption**

Any material the subject of a resource recovery exemption received at the development site shall be accompanied by documentation as to the material's compliance with the exemption conditions and shall be provided to the Principal Certifying Authority or the Council upon request.

**29. Dust management**

Dust shall be managed using water suppression, re-establishment of vegetation cover, stockpile management, covering loads, preventing spoil tracking onto roads and halting works on site in extreme wind events. Further guidance can be sourced from 'No Dust No Fuss: Guidelines for controlling dust from construction sites' NSW EPA.

**30. Construction**

The hours of operation for any noise generating construction activity (including the delivery of materials to and from the site) on the proposed development are to be limited to within the following times:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm

No noise generating construction activities are to take place on Sundays or public holidays.

**31. Site contamination**

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about the site contamination must be immediately notified to the Council and the Principal Certifying Authority.

**32. Waste management**

All demolition, construction or the like waste is to be transported and disposed of to an approved waste facility unless managed in accordance with a current resource recovery order and exemption.

**It is an offence to transport waste to a place that cannot lawfully be used as a waste facility.**

**33. Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) which has been prepared in accordance with the requirements of Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004 shall be implemented in full during the construction period.

**34. Sediment and erosion control measures**

To prevent the pollution of waterways, the applicant/builder is to ensure adequate sediment and erosion control measures are in place prior to the commencement of works. These are to be maintained during the construction of the project until the site has been stabilised by permanent vegetation cover or a hard surface. This is to include:

- The prevention of soil erosion and the transportation of sediment material into any roadway, natural or constructed drainage systems, watercourse and or adjoining land
- Service trenches being backfilled as soon as practical
- Downpipes being connected as soon as practical or the use of temporary downpipes
- Buffer vegetation zones being retained on sites that adjoin roadways, drainage systems and or watercourses

- Sediment and erosion control measures are to be maintained throughout the construction process and beyond by the owner, where necessary.

**Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.**

### **35. Covering of stockpiles**

Suitable covering and protection is to be provided to all stockpiles to ensure that no material is removed from the site by wind, causing a nuisance to neighbouring properties.

### **36. Sediment and waste materials**

The discharge of sediment and waste materials including concrete waste, paint, plaster and the like material into any roadway, natural or constructed drainage system, watercourse and/or adjoining land constitutes a breach of development approval conditions. Council's Authorised Officers may issue a Clean Up Notice, Prevention Notices and/or an on-the-spot fine in accordance with the Protection of the Environment Operations Act 1997.

### **37. Covering of vehicles and trailers**

The body of any vehicle or trailer used to transport waste or excavation spoil shall be covered before leaving the premises to prevent any spillage or escape of any dust, waste or spoil. Mud, splatter, dust and other material likely to fall from or be cast off the wheels, underside or body of any vehicle, trailer or motorised plant leaving the site shall be removed before leaving the premises.

### **38. Noise control**

All work, including demolition, excavation and building work shall comply with Australian Standard AS 2436:2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* and NSW *Interim Construction Noise Guidelines* (DECC 2009).

### **39. Source of fill material**

The applicant shall ensure that any fill material imported to the site for the proposed development is obtained from fill sources that have an approved testing regime. The supplier of the fill material must certify to the Principal Certifying Authority (PCA) at the completion of the construction of the development that the material was free of contaminants, being natural or otherwise.

### **40. Stormwater management plan**

The applicant shall be required to implement the approved Stormwater Management Plan during the construction phase. Details must be submitted to The Principal Certifying Authority prior to other construction works commencing demonstrating compliance with the requirements of the approved Stormwater Management Plan.

### **41. Damage to Council infrastructure**

Damage to any grass verge, footpath, kerb and guttering, utility services or road within the road reserve as a result of construction works related to the development shall be immediately reinstated to a satisfactory and safe condition. Council's Engineer must be contacted on telephone 6686 4444 at the time any damage occurs to ensure appropriate reinstatement works are undertaken.

### **42. Aboriginal Objects Find Procedure**

If it is suspected that Aboriginal material has been uncovered as a result of development activities within the Project Area:

- a) Work in the surrounding area is to stop immediately;
- b) A temporary fence is to be erected around the site, with a buffer zone of at least 10 metres around the known edge of the site;

- c) An appropriately qualified archeological consultant is to be engaged to identify the material; and
- d) If the material is found to be of Aboriginal origin, the Aboriginal community is to be consulted in a manner as outlined in the Aboriginal Cultural Heritage Consultation Requirements for Proponents (ACHCRP) (2010).

#### **43. Aboriginal Human Remains**

Although it is unlikely that human remains will be located at any stage during earthworks within the Project Area, should this event arise all works must halt in the immediate area to prevent any further impacts to the remains. The site should be cordoned off and the remains themselves should be left untouched. The nearest police station (Ballina) the Jali Local Aboriginal Land Council and the Department of Planning, Industry & Environment (DPIE) Regional Office (Coffs Harbour) are all to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the site for criminal activities, the Aboriginal community and the DPIE should be consulted as to how the remains should be dealt with. Work may only resume after agreement is reached between all notified parties, provided it is in accordance with all parties' statutory obligations.

In all dealings with Aboriginal human remains, the Proponent should use respectful language, bearing in mind that they are the remains of Aboriginal people rather than scientific measures.

#### **44. Notifying the DPIE**

If Aboriginal cultural materials are uncovered as a result of development activities in the Project Area, they are to be registered as Sites in the AHIMS managed by the DPIE. Any management outcomes from the site will be included in the information provided to the AHIMS.

#### **45. Conservation Principles**

All effort must be taken to avoid any impacts on Aboriginal Cultural Heritage values at all stages during the development works. If impacts are unavoidable, mitigation measures should be negotiated between the Proponent, DPIE and the Aboriginal community.

### **PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE**

*Unless otherwise stated all conditions referred to in other sections of this consent must be complied with together with the following conditions prior to occupation or use.*

#### **46. Occupation Certificate**

An Occupation Certificate is to be obtained prior to commencement of use or occupation of the premises. Where Council is not the Principal Certifying Authority the applicant shall ensure that a Certificate of Occupation prepared by the Principal Certifying Authority is submitted to Council prior to occupation of the building.

#### **47. Height of Shed 4**

A surveyor certificate verifying the maximum height of Shed 4 does not exceed 10 metres is to be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.

#### **48. Fire safety certificate**

On completion of the erection of the building, the owner is required to provide Council with a Final Fire Safety Statement for the proposed development and shall certify that all essential (fire safety) services installed in the building have been inspected and tested by a competent fire safety practitioner and were found to have been designed and installed to be capable of operating to the minimum standard required by the Building Code of Australia (BCA).

The Final Fire Safety Statement to which this consent applies must be in the approved form and be provided in accordance with Clause 171 of the *Environmental Planning and Assessment Regulation 2000*.

**It is an offence to fail to provide a Fire Safety Statement in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*.**

**49. Trade Waste**

Prior to issue of the Occupation Certificate, all pre-treatment equipment as outlined in the Trade Waste Approval shall be installed, inspected and commissioned. A pre-operation inspection is required by Council that demonstrates compliance with the requirements of the Liquid Trade Waste approval (required by Condition 10 of this consent).

**50. Noise Impact Assessment Report**

The acoustic consultant shall provide the Principal Certifying Authority (PCA) with certification that the construction measures comply with the acoustic specifications identified in the Noise Impact Assessment Report dated 20 December 2018 or as amended, by CRG Acoustics, prior to the release of any Occupation Certificate.

**51. Car parking (standard)**

The construction of all car parking and vehicular accesses is to be in accordance with the approved Construction Plans and Australian Standard AS/NZS 2890.1: 2004. All works are to be certified by a suitably qualified consultant prior to issue of the Occupation Certificate.

**52. Car parking (disabled)**

The construction of all disabled car parking spaces is to be in accordance with the approved Construction Plans and Australian Standard AS/NZS 2890.6: 2009. All works are to be certified by a suitably qualified consultant prior to issue of the Occupation Certificate.

**53. Stormwater**

Prior to the issue of an Occupation Certificate, certification must be provided to the Principal Certifying Authority that all stormwater works have been provided in accordance with the approved Construction Plan and the approved Stormwater Management Plan. Overland flow paths must not to be impeded through structures or landscaping and must direct stormwater flows to the public drainage system and not onto adjoining properties. This certification is to be provided by a registered certified practicing engineer competent in the field of stormwater design and familiar with all aspects of the project.

**54. Driver's Code of Conduct**

Prior to the issue of an Occupation Certificate the applicant shall prepare a *Code of Conduct* for haulage operators, this is to include but not necessarily be limited to;

1. A map of the primary haulage route highlighting critical locations.
2. Any safety initiatives applicable to specific haulage route.
3. An induction process for vehicle operators and regular toolbox meetings.
4. A complaint resolution and disciplinary procedure.

Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Occupation Certificate.

**55. Dust Management Plan**

A Dust Management Plan shall be prepared for the site. The management plan shall identify all potential dust generating activities (loading, unloading, crushing, vehicle movements etc) and specify mitigation measures to minimise dust emissions, monitoring requirements and complaint handling procedures. This plan shall address those matters in the NSW Environment Protection Authority General Terms of Approval issued 17 April 2019 (amended 5 November



**2019).** The dust management plan shall be submitted to and approved by the Principal Certifying Authority (PCA) prior to the release of any Occupation Certificate. If Council is not the PCA a copy of the plan shall be provided to Council.

#### **CONDITIONS OF USE/DURING OCCUPATION**

*The following conditions in this section of the consent are to be complied with in the day-to-day use or operation of the approved development.*

##### **56. Occupation Certificate**

The building is not to be occupied until a final occupation or interim occupation certificate has been issued by the Principal Certifying Authority (PCA).

##### **57. Fire safety statement**

The owner of the building must provide Council with an annual Fire Safety Statement at least once in each twelve months certifying that the essential and statutory fire safety measures in the building have been inspected and tested by a competent person and were found to have been designed, installed and capable of operating to the minimum standard required by the current Fire Safety Schedule.

The Annual Fire Safety Statement must be in the approved form in accordance with Clause 175, *Environmental Planning and Assessment Regulation 2000*.

A copy of the Annual Fire Safety Statement together with a copy of the Fire Safety Schedule are to be forwarded to the Commissioner, NSW Fire Brigades, and a copy of the Fire Statement and Schedule, prominently displayed in the building.

**It is an offence to fail to provide an Annual Fire Safety Statement and to fail to prominently display the current Annual Fire Safety Statement and current Fire Safety Schedule within the building in accordance with the requirements of Clause 177 of the *Environmental Planning and Assessment Regulation 2000*.**

##### **58. Loading and unloading**

All loading and unloading of goods are to be carried out off-street and wholly within the site.

##### **59. Vehicular access**

Vehicular entry to and exit from the site shall be in forward direction.

##### **60. Car parking**

All vehicles associated with the conduct operation of the business on the subject allotment shall be parked wholly within the allotment and not within the adjoining street system.

##### **61. Vehicle management**

The operation of the business shall be in accordance with the vehicle management plan approved as part of the Construction Certificate.

##### **62. Stormwater management**

The approved stormwater management systems shall be maintained in a suitable standard to achieve the outcomes identified in the approved stormwater management plan and maintenance of these systems shall be undertaken in accordance with the approved stormwater maintenance plan.

##### **63. Waste management**

Operational waste management activities at the site shall be in accordance with the '*Standards for Managing Construction Waste in NSW*' (State of New South Wales and the NSW Environment Protection Authority 2019) and Waste Management Plan prepared by Tim Fitzroy & Associates dated 9 August 2017.

**64. Resource recovery order**

Prior to the sale and/or reuse of processed construction and demolition waste, testing shall be undertaken in accordance with the requirements of the relevant resource recovery order. Materials that do not comply with the resource recovery order shall either be disposed of at a place that can lawfully receive it or be the subject of a specific resource recovery exemption/order.

**65. Waste management**

Waste, including hazardous and/or industrial waste, arising from the operational activities must be stored, transported and disposed of in accordance with the requirements of NSW EPA and SafeWork NSW pursuant to the provisions of the following:

- (a) Protection of the Environment Operations Act 1997;
- (b) Protection of the Environment Operations (Waste) Regulation 2014;
- (c) Waste Avoidance and Resource Recovery Act 2001;
- (d) New South Wales Work Health & Safety Act 2011; and
- (e) The Work Health & Safety Regulation 2017.

**66. Dust deposition gauges – installation**

Three dust deposition gauges shall be installed to measure the effectiveness of dust suppression on site. If dust deposition exceeds 4g/m<sup>2</sup>/month, then additional dust suppression activities shall be undertaken. This requirement can only be modified/removed with the written approval of the appropriate regulatory authority.

**67. Dust deposition gauges – operation**

Operation of dust deposition gauges and monitoring must be carried out in accordance with Australian Standard 3580.10. 01 (2003) Particulates – Deposited Matter – Gravimetric Method and approved method AM-19 referred to in *Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales*, December 2007. The responsible person must certify to the Ballina Shire Council that the monitoring has been undertaken in accordance with these standards. In addition, the dust deposition gauges are to be monitored for the presence of asbestos.

**68. Prescribed hours of operation**

Activities carried out on the land pursuant to this consent (not including initial construction works) shall only be undertaken in accordance with;

- Vehicles shall only operate between 6.00am and 6.00pm Monday to Friday and 6.00am to 1.00pm Saturdays
- Sorting, pulverising, crushing and screening shall only occur between 7.00am to 6.00pm Monday to Friday with not more than 5 hours of crushing on any given day.
- Outdoor pulverising shall be limited to a maximum 30 minutes per day.

No crushing, pulverising and screening shall occur on Saturdays.

No operation of vehicles, crushing, pulverising and screening shall occur on Sundays or Public Holidays.

**69. Ground maintenance**

Ground maintenance involving the use of power equipment, including lawn mowers and leaf blowers, shall be restricted to between 7.30am and 6.00 pm, Mondays to Fridays inclusive and 8.00am and 1.00pm on Saturdays.

**70. Environmental Noise Impact Assessment**

Operation of the site shall be in accordance with recommendations included in the Environmental Noise Impact Assessment dated 20 December 2018 prepared by CRG Acoustics, including the below:

- Compression of waste through impactful means (i.e. by excavator bucket actively impacting materials into skip bins) shall not be undertaken. Waste material can be compressed if the excavator bucket is laid on the materials then pressed down, avoiding impacts
- Trucks and heavy equipment are to be restricted to a posted speed of 5 km/hr. Signage is to be erected onsite at prominent locations
- Dump trucks are to be switched off when being loaded
- The northern roller door of Shed 3 is to be kept closed at all times.
- No alarm bells or paging systems should be used on-site
- Permanent onsite vehicles shall have a modified beeper installed i.e. croaker
- Provide contact details to identified noise sensitive receiver, as identified in report, and
- Maintain a complaint register on-site and present for review upon request of regulatory staff.

**71. Liquid storage**

All liquid chemicals, fuels and oils shall be stored in tanks or containers inside suitable bund(s). Bund(s) are to be designed, constructed and maintained in accordance with AS 1940-2004 storage and Handling of Flammable and Combustible Liquids.

**72. Clean up equipment**

Clean up equipment including suitable absorbent material shall be stored on site to effectively deal with liquid contaminants such as oils and chemical spills.

**73. Emissions**

The use of the premises must not give rise to the emission of gases, vapours, dusts and/or other impurities which are a nuisance, injurious or prejudicial to health.

**74. Maintenance of plant and equipment**

All plant and equipment installed or used in or on the premises shall be maintained in a serviceable condition and operated in a proper and efficient manner at all times.

**75. Pollution incidents**

In the event of a pollution incident on the premises, that has caused, is causing, or is likely to cause harm to the environment, the incident shall be reported in accordance with the requirements of section 148 of the *Protection of the Environment Operations Act 1997* (POEO Act).

**76. Dust Management Plan**

The operational activities at the site shall be in accordance with the requirements of the approved dust management plan.

**77. External lighting**

All external lighting to be installed and operated on site shall comply with AS 4282:1997 "Control of the obtrusive effects of outdoor lighting".

**78. Landscaping**

Landscaping is to be provided on the site in a manner that does not impede surveillance or result in concealment areas.

**79. General Terms of Approval – NSW Environment Protection Authority**

Operation of the premises is to occur in accordance with the General Terms of Approval issued 17 April 2019 (amended 5 November 2019) and the Environment Protection Licence (EPL) issued for the premises.

**ADVISORY MATTERS**

**1. Disability Discrimination Act 1992**

The granting of this consent does not imply or confer compliance with the requirements of the *Disability Discrimination Act 1992 (DDA)*. The applicant is advised to investigate any liability that may apply under that Act. *Australian Standard AS 1428 – Design for Access and Mobility* should be consulted for guidance. The prescriptive requirements of Part 1 of the Standard apply to certain buildings requiring development consent.

Compliance with the BCA does not guarantee compliance with the DDA. The BCA provides important access provisions however:

- a) it does not cover all developments that are subject to the provisions of the DDA;
- b) it focuses primarily on access for people with disabilities which affect their mobility and does not address other disabilities, such as sensory disabilities; and
- c) while it mandates improved access for people with disabilities, it is not framed in terms of “equality of access.”

You are therefore advised to investigate your liability under the DDA with respect to any existing and proposed future works.

**2. Protection of the Environment**

The development is to be operated in accordance with the provisions of the Protection of the Environment and Operations Act 1997 as it applies to issues of air quality, noise generation, water and wastewater quality.

**3. Noise control**

Use of the premises/services/equipment/ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the *Protection of the Environment & Operations Act 1997*.

**4. WorkCover requirements**

The premises shall be operated in accordance with the requirements of the WorkCover Authority.

**5. Wastewater management advice**

All work carried out in connection with this approval must comply with any applicable standard established by the Local Government (Approvals) Regulation 1993, the Local Government (Water, Sewerage and Drainage) Regulation 1993, or by or under the Act.

#### **6. Smoke Free Environment**

As required by the Smoke-free Environment Act 2000 smoking is banned within 4 metres of the pedestrian entrance or exit of the building used for non-residential purposes. 'No smoking' signage is recommended to support public awareness of the smoking ban. On the spot fines may be issued to those who do not comply with the 4 metre requirement.

#### **Advisory Note:**

**The applicant is advised to take care in ensuring that no damage is done to or unauthorised modifications are carried out on either Council's or any other organisation's underground infrastructure assets. Any Council sewer, stormwater or water main or other organisation owned electricity supply or telecommunication facility is not to be damaged or altered in any way without the necessary approvals being obtained beforehand from the relevant server.**

**You are advised to contact the following:**

- **Council - for information on sewer, water supply & stormwater**
- **Rous Water - Water Supply for Rous Water Authority controlled areas**
- **"Dial Before You Dig" - for other service infrastructure**

**The information relating to your property is to be obtained prior to any works commencing.**

### **SCHEDULE 1**

**NSW Environment Protection Authority  
General Terms of Approval Dated 17 April 2019**

## General Terms of Approval - Issued

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Notice No: 1578573

Ballina Shire Council  
The General Manager  
Po Box 450  
BALLINA NSW 2478

Attention: Georgia Lee

Notice Number 1578573  
File Number EF13/8198  
Date 17-Apr-2019

**Re: Expansion of resource recovery facility located at Lot 1 DP 1237064, 19 - 21 Northcott Crescent Alstonville.**

**Issued pursuant to Section 4.46 Environmental Planning and Assessment Act 1979**

I refer to the development application (DA) and accompanying information provided for DA 2017/600 received by the Environment Protection Authority (EPA) on 13 February 2019.

EPA has reviewed the information provided including public submissions and has determined that it is able to issue a licence for the proposal, subject to a number of conditions. The applicant will need to make a separate application to EPA to obtain this licence.

The general terms of approval for this proposal are attachment. If Ballina Shire Council grants development consent for this proposal these conditions should be incorporated into the consent.

These general terms relate to the development as proposed in the documents and information currently provided to EPA. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with EPA about the changes before the consent is issued. This will enable EPA to determine whether its general terms need to be modified in light of the changes.

In assessing the proposal EPA has identified that the issues raised through the environmental assessment and public submissions could be managed by the mitigation measures proposed in the project documents and our General terms of Approval.

## General Terms of Approval - Issued

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Notice No: 1578573

If you have any questions, or wish to discuss this matter further please contact Luke Davison on 02 6659 8250.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Hunter', written over a horizontal dotted line.

**Scott Hunter**

**Unit Head Waste Compliance**

**Environment Protection Authority**

(by Delegation)

## General Terms of Approval - Issued



Notice No: 1578573

### Administrative conditions

#### 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 DA2017/600 submitted to Ballina Shire Council on 20 December 2018;
- amended environmental impact statement dated December 2018 relating to the development; and
- all additional documents supplied to the EPA in relation to the development, including:
  1. Environmental Noise Impact Assessment, CRG Acoustics, 20 December 2018; and
  2. Air Quality Assessment, Tim Fitzroy & Associates, 20 December 2018.
  3. Engineering Services Report - Expansion of Builders Waste Recycling Service, Newton Denny Chapelle, June 2018.
  4. All other plans and reports identified in section 3.2.11 of the amended environment impact statement, dated 20 December 2018.

#### 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.

### Limit 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. Waste

L2.1 The licensee must not cause, permit or allow any waste to be received at the premises, except the wastes expressly referred to in the column titled "Waste" and in meaning the definition, if any, in the column titled "Description" in the table below.

Any waste received at the premises must only be for the activities referred to in relation to that waste in the column titled "Activity" in the table below.

Any waste received at the premises is subject to those limits or conditions, if any, referred to in relation to that waste contained in the column titled "Other Limits" in the table below.

This condition does not limit any other conditions in this licence.

Code	Waste	Description	Activity	Other limits
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# General Terms of Approval - Issued



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NA building and demolition waste As defined in the POEO Act, as in force from time Recovery of waste general 30,000 T of waste per annum

**Note:** For the purpose of clarifying Condition L2.1, the maximum total limit of waste consisting of building and demolition waste that can be received at the premises for the purpose of recovery of general waste is 30,000 tonne per annum.

**L2.2** The applicant must have in place and implement procedures to identify and prevent the acceptance of any waste not permitted by this licence to be accepted at the premises.

## L3. Noise limits

**L3.1** Noise generated at the premises that is measured at each noise monitoring point established under this licence must not exceed the noise levels specified in Column 4 of the table below for that point during the corresponding time periods specified in Column 1 when measured using the corresponding measurements parameters used in Column 2.

### Point 1

Location	Lot and DP number	Noise limit dB(A)	Noise limit dB(A)	Noise limit dB(A)
		Morning shoulder	Morning shoulder	Day
		LA1 (1 minute)	LAeq (15 minute)	LAeq (15 minute)
8 Toona Lane, Wollongbar	Lot 10, DP12000477	63	57	63

### Point 2

Location	Lot and DP number	Noise limit dB(A)	Noise limit dB(A)	Noise limit dB(A)
		Morning shoulder	Morning shoulder	Day
		LA1 (1 minute)	LAeq (15 minute)	LAeq (15 minute)
2 Bowers Close, Wollongbar	Lot 6, DP814058	59	57	62

### Point 3

Location	Lot and DP number	Noise limit dB(A)	Noise limit dB(A)	Noise limit
		Morning shoulder	Morning shoulder	Day
		LA1 (1 minute)	LAeq (15 minute)	LAeq (15 minute)
14 Dulcet Lane, Alstonville	Lot 13, DP1059499	51	57	49

**L3.2** For the purposes of condition L3.1:

- Morning shoulder is defined as the period from 6am to 7am Monday to Saturday.
- Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sunday and Public Holidays.

## General Terms of Approval - Issued

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**L3.3** The noise limits set out in condition L3.1 apply under all meteorological conditions except for the following:

- A. Wind speeds greater than 3 meters/second at 10 meters above ground level
- B. Stability category F temperature inversion conditions and wind speeds greater than 2 meters/second at 10 meters above ground level; or
- C. Stability category G temperature inversion conditions.

**L3.4** For the purpose of condition L3.3 data recorded by a Bureau of Meteorology Meteorological station at Ballina Airport AWS (station number 058198) must be used to determine meteorological conditions.

**L3.5** To determine compliance:

- A. with the noise limits in condition L3.1, the noise measurement equipment must be located:
  - approximately on the property boundary, where any dwelling is situated 30 meters or less from the property boundary closest to the premises; or
  - within 30 meters of a dwelling facade, but not closer than 3m, where any dwelling on the property is situated more than 30 meters from the property boundary closest to the premises; or, where applicable
  - within approximately 50 meters of the boundary of a National Park or a Nature Reserve.
- B. with the noise limits in condition L3.1, 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 condition L3.5(A)

**L3.6** A non-compliance of condition L3.1 will still occur where noise generated from the premises is in excess of the appropriate limit when measured:

- at a location other than an area prescribed by conditions L3.5(A) and L3.5(B); and/or
- at a point other than the most affected point at a location.

**L3.7** For the purpose of determining the noise generated at the premises the modification factors in Fact Sheet C of the Noise Policy for Industry must be applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

**L3.8** Construction is permitted between the hours 7:00am to 6:00pm Monday to Friday, and Saturdays between 8:00am to 1:00pm, with no construction permitted on Sundays and Public Holidays.

### Definition

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

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- Noise Policy for Industry - the document entitled "Noise Policy for Industry" published by the Environment Protection Authority in October 2017.
- Noise 'sound pressure levels' for the purpose of conditions L3.1 to L3.7.

### L4 Hours of operation

**L4.1** All construction work at the premises must only be conducted between 7:00am to 6:00pm Monday to Friday and 7:00am to 1pm Saturday (construction work must not occur on Sundays or Public Holidays).

**L4.2** Activities at the premises, other than construction work, must only occur:

- Vehicles must only operate between 6:00am and 6:00pm Monday to Friday and 6:00am and 1:00pm Saturday.
- Sorting, pulverising, crushing and screening must only occur between 7:00am and 6:00pm Monday to Friday and 7:00am to 1:00pm Saturday.

*Note: The operation of vehicles, crushing, pulverising and screening must not take place on Sundays or Public Holidays.*

**L4.3** This condition does not apply to the delivery of material outside the hours of operation permitted by condition L4.1 or L4.2, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

**L4.4** Crushing at the premises must only take place for a maximum of five hours a week. Records of crushing must be kept including dates and times when crushing occurred and provided to the EPA when requested.

**L4.5** The hours of operation specified in conditions L4.1, L4.2 and L4.4 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

### Operating conditions

#### O1. Odour

**O1.1** No Condition of this approval identifies a potentially offensive odour for the purposes of section 129 of the Protection of the Environment Operations Act 1997.

*Note: Section 129 of the Protection of the Environment Operations Act 1997, provides that the licensee must not cause or permit the emission of any offensive odour from the premises but provides a defence if the emission is identified in the relevant environment protection licence as a potentially offensive odour and the odour was emitted in accordance with conditions of a licence directed at minimising odour.*

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### **O2. Dust**

**O2.1** Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

**O2.2** The premises must be maintained in a condition that minimises and/or prevents emission of dust from the premises at all times.

**O2.3** Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

**O2.4** Prior to the issuing of an Environment Protection Licence, the proponent must prepare and implement an Air Quality Management Plan (the AQMP) for the premises. The AQMP must include the following information for all emission sources at the site:

- Reactive and proactive management strategies;
- Key performance indicators;
- Monitoring methods;
- Location, frequency and duration of monitoring;
- Record keeping;
- Response mechanisms; and
- Compliance reporting.

**O2.5** The premises must be designed to not preclude the retrofit of additional mitigation measures for dust emissions, including the retrofit of complete enclosure.

**O2.6** All crushing of material must be undertaken within Shed 3 identified on figure labelled *Plan 5 - Proposed Development Overview* contained in document prepared by Newton Denny Chapelle, dated 20 December 2018.

**O2.7** A wet suppression system for managing dust emissions must be installed within Shed 3, Shed 4 and the Aggregate Storage Bays as identified in the figure labelled *Plan 5 - Proposed Development Overview* contained in document prepared Newton Denny Chapelle, dated 20 December 2018. The wet suppression system must be operated at all times whenever activities are occurring at the premise.

### **O3. Stormwater/sediment control - Construction and Operation Phase**

**O3.1** An Erosion and Sediment Control Plan (ESCP) must be prepared and implemented Prior to the issue of any Environment Protection Licence for the premises. 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 all construction and operational activities. The ESCP should be prepared in accordance with the requirements for such plans outlined in *Managing Urban Stormwater: Soils and Construction* (the Blue book).



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### ***Monitoring and recording 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:

- in a legible form, or in a form that can readily be reduced to a legible form;
- kept for at least 4 years after the monitoring or event to which they relate took place; and
- 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;
- the time(s) at which the sample was collected;
- the point at which the sample was taken; and
- the name of the person who collected the sample.

#### ***M2. Testing methods - concentration limits***

**M2.1** Monitoring for the concentration of a pollutant emitted to the air 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 a relevant local calculation protocol must be done in accordance with: any methodology which is required by or under the POEO Act 1997 to be used for the testing of the concentration of the pollutant; or

if no such requirement is imposed by or under the POEO Act 1997, any methodology which the general terms of approval or a condition of the licence or the protocol (as the case may be) requires to be used for that testing; or

if no such requirement is imposed by or under the POEO Act 1997 or by the general terms of approval or a condition of the licence or the protocol (as the case may be), any methodology approved in writing by the EPA for the purposes of that testing prior to the testing taking place.

**Note:** The Clean Air (Plant and Equipment) Regulation 1997 requires testing for certain purposes to be conducted in accordance with test methods contained in the publication "Approved Methods for the Sampling and Analysis of Air Pollutants in NSW".)

#### ***M3. Requirement to Monitor Noise***

## General Terms of Approval - Issued



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**M3.1** Compliance with Condition L3.1 must be assessed by attended noise monitoring in accordance with condition L3.5:

- A. at each one of the locations listed in Condition L3.1;
- B. occur at the time of commencement of typical processing activity;
- C. occur during the day as defined in the Noise Policy for Industry for a minimum of 30 minutes of duration in the day period for typical processing activity.

### 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** noise compliance assessment report must be submitted to the EPA within 60 days of the issue of the approval. The assessment must be prepared by a suitably qualified and experienced acoustic consultant and include, but not limited to:

- A. an assessment of compliance with noise limits presented in Condition L3.1; and
- B. an outline of any management actions taken within the monitoring period to address any exceedances of the limits contained in Condition L3.1.

### General Conditions

**G1** All vehicles entering and exiting the premises must have their weights recorded at the weigh-bridge.

### 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 either in full within 6 months of the issue of the licence, or in three installments. The financial assurance must be in the favour of the EPA to an agreed amount. The financial assurance is required to secure or guarantee funding for works or programs required by or under this licence.

**E1.2** The licensee must provide 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).

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**E1.3** The financial assurance must contain a term that provides that any money claimed can be paid to the EPA, 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 that the EPA is satisfied that 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 claimed 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 as required by condition E1.3 and E1.6.

**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 Environment Obligations of Licensee (works and programs)**

**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 waste 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.

## General Terms of Approval - Issued



Notice No: 1578573

### **Mandatory Conditions for all EPA licences**

#### **Administrative conditions**

#### **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:

- a. must be maintained in a proper and efficient condition; and
- b. 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.



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### 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.

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### ***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 immediately 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

## General Terms of Approval - Issued



Notice No: 1578573

- 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:

- a. the cause, time and duration of the event;
- b. the type, volume and concentration of every pollutant discharged as a result of the event;
- c. 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
- d. 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;
- e. action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- f. details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
- g. 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.

**Varied Condition L4.2 and L4.4 for General Terms of Approval Issued 17 April 2019 (Variation Dated 5 November 2019)**

Environmental Planning and Assessment Act 1979

**Part 4 Modification Application  
- EPA Comments**



Notice No. - 1587908

The General Manager  
Ballina Shire Council  
PO Box 450

BALLINA SHIRE COUNCIL  
ABN 53 929 887 369

BALLINA NSW 2478

Attention: Georgia Lee

Notice Number 1587908  
File Number EF13/8198  
Date 05-Nov-2019

**Re: Expansion of resource recovery facility located at Lot 1 DP1237064, 19-21 Northcott Crescent Alstonville.**

I refer to the email from Ballina Shire Council (Council) received by the Environment Protection Authority (EPA) on 4 November 2019 regarding the general terms of approval (GTA) for DA 2017/600 issued on 17 April 2019.

The EPA has varied conditions **L4.2** and **L4.4** within GTA notice numbers 1578573 and 1579256 to be consistent with the information provided as part of DA 2017/600 regarding the hours of operation for sorting, pulverising, crushing and screening activities.

Condition **L4.2** in the general terms of approval has been varied from:

**L4.2** Activities at the premises, other than construction work, must only occur:

- Vehicles must only operate between 6:00am and 6:00pm Monday to Friday and 6:00am and 1:00pm Saturday.
- Sorting, pulverising, crushing and screening must only occur between 7:00am and 6:00pm Monday to Friday and 7:00am to 1:00pm Saturday.

*Note: The operation of vehicles, sorting, crushing, pulverising and screening must not take place on Sundays or Public Holidays.*

## Part 4 Modification Application - EPA Comments



Notice No. - 1587908

to:

**L4.2** Activities at the premises, other than construction work, must only occur:

- Vehicles must only operate between 6:00am and 6:00pm Monday to Friday and 6:00am and 1:00pm Saturday.
- Sorting, crushing, pulverising and screening must only occur between 7:00am and 6:00pm Monday to Friday.

*Note: Sorting, crushing, pulverising and screening must not take place on Saturdays. The operation of vehicles, sorting, crushing, pulverising and screening must not take place on Sundays or Public Holidays.*

Condition **L4.4** in the general terms of approval has been varied from:

**L4.4** Crushing at the premises must only take place for a maximum of five hours a day, Monday to Saturday, during operating hours as identified in condition L4.2. Records of crushing must be kept including dates and times when crushing occurred and provided to the EPA when requested.

to:

**L4.4** Crushing at the premises must only take place for a maximum of five hours a day, Monday to Friday, during operating hours as identified in condition L4.2. Records of crushing must be kept including dates and times when crushing occurred and provided to the EPA when requested.

If Council grants development approval for this proposal these varied conditions, along with other conditions identified in notices 1578573 and 157925, should be incorporated into the consent.

The GTA are related to the development as proposed in the documents and information currently provided to the EPA. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will necessary to consult with the EPA about the changes before the consent is issued. This will enable the EPA to determine whether its GTA need to be modified in light of the changes.

If you have any questions, or wish to discuss this matter further please contact Luke Davison on 02 6659 8250.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Luke Davison', followed by a horizontal dotted line.

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## SCHEDULE 2

Contribution	Receipt Code	Contribution Unit	Rate per contribution Unit	Total Contribution Units Payable	TOTAL COST
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Roads Contribution Plan V4.1 (2018)	5206	equivalent residential allotment	\$12,498.00	3.4046	\$42,551.21
Roads Administration V4.1 (2018)	5207	equivalent residential allotment	\$187.00	3.4046	\$636.67
TOTAL	\$43,187.88				