



**DETERMINATION AND STATEMENT OF REASONS**  
**HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL**

<b>DATE OF DETERMINATION</b>	4 July 2023
<b>DATE OF PANEL DECISION</b>	3 July 2023
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Roberta Ryan, Tony McNamara and Christine Buckley
<b>APOLOGIES</b>	Allison Burrows
<b>DECLARATIONS OF INTEREST</b>	Jason Pauling declared a conflict of interest as he has voted in relation to the waste management facility as a Councillor of Lake Macquarie City Council, and made public comment regarding it.

Papers circulated electronically on 20 June 2023.

**MATTER DETERMINED**

PPSHCC-121 – Lake Macquarie – DA/1940/2013/B at 367 and 413 Wilton Rd, Awaba – waste management 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.

The Panel has had the benefit of a number of detailed briefings from Council and a briefing from the applicant. The Panel also considered a memo dated 26 June 2023 addressing some queries of the Panel regarding conditions and provisions of section 4.55.

The application has been amended since lodgement to address the key issues of potential odour and noise impact. The odour modelling lodged with the application was peer reviewed which required additional modelling work to be undertaken. The EPA have also provided comments on the application over the course of the assessment.

The site is an existing facility that has been in operation for some 5-6 years – having originally been approved in October 2014. The Panel understands that there have been issues with odour and compliance with EPA requirements.

The continued use of the facility for composting waste is of broader benefit to the environment and community. The change in technology, partial enclosure of the receival hall and installation of roof fans and improved operational procedures and ongoing monitoring regime will ensure that the impacts in terms of odour and noise can be adequately mitigated and managed.

The Panel is satisfied that the proposed development is substantially the same development as originally granted consent having regard to the nature of the changes and the circumstances of the original approval. The proposal has merit.

### Development application

The Panel determined to approve the modification to development application DA/1940/2013 pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979* subject to the modifications to the conditions in Schedule 2. The decision was unanimous.

### REASONS FOR THE DECISION

The Panel determined to approve the application for the following reasons:

- The potential impacts arising from the modification can be adequately mitigated and managed.
- The change in technology will result in improved environmental outcomes.

### CONDITIONS

The modification to the development application was approved subject to the amendments to conditions outlined as follows and highlighted in Schedule 2.



1. Condition 2: amended to include updated plans.
2. Condition 6: amended to include reference to additional works.
3. New condition 7A: added to require odour management and monitoring.
4. New condition 9A: added to reflect new Subsidence Advisory NSW GTA's.
5. Condition 10: amended to update reference to use as Waste Management Facility – Composting Facility and delete words awaba alternative waste treatment facility.
6. Condition 11: amended to reflect GTA's from NSW RFS.
7. Condition 13: amended to update reference to current acoustic report and Occupation Certificate requirements.
8. Condition 28: amended to update reference to Council DCP.
9. Condition 39: amended to delete reference to alternate waste treatment facility and replace with Waste Management Facility – Composting Facility.
10. Condition 40: amended to delete reference to alternate waste treatment facility and replace with Waste Management Facility – Composting Facility.
11. Update General Terms of Approval list to include NSW RFS.
12. Replace reference to Planning & Assessment Commission with Independent Planning Commission.


### CONSIDERATION OF COMMUNITY VIEWS

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

- Odour emissions

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report. The Panel notes that in addressing these issues amended plans and revised odour modelling has been carried out. Condition 7A has been imposed to address ongoing management and monitoring of odour.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Tony McNamara

 Roberta Ryan	 Christine Buckley
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SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-121 – Lake Macquarie – DA/1940/2013/B
2	PROPOSED DEVELOPMENT	Modification to the existing Mobile Aerated Floor composting area into an open windrow composting pad that utilises a windrow turner at the Lake Macquarie Organics Resource Recovery Facility
3	STREET ADDRESS	367 Wilton Road, Awaba Lot 372 DP 723259 413 Wilton Road, Awaba Lot 100 DP 1290754
4	APPLICANT OWNER	GHD Pty Ltd on behalf of REMONDIS Australia Pty Ltd Lake Macquarie City Council
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Resilience &amp; Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: Nil</li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i></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	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 20 May 2023</li> <li>Supplementary report received: 26 June 2023</li> <li>Written submissions during public exhibition: six (6)</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 7 April 2022 <ul style="list-style-type: none"> <li><u>Panel members</u>: Juliet Grant (Acting Chair), Sandra Hutton and Roberta Ryan</li> <li><u>Applicant</u>: Shaun Lawer, Jan Duebbelde and Amrish Trivedi</li> <li><u>Council assessment staff</u>: Rosie Turner and Amy Regado</li> <li><u>Department staff</u>: Leanne Harris and Lisa Foley</li> </ul> </li> <li>Briefing on site: 12 May 2022 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Sandra Hutton</li> <li><u>Council assessment staff</u>: Nicole Sellen, Rosie Turner and Glen Mathews</li> <li><u>Department staff</u>: Leanne Harris</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Briefing: 23 June 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton, Roberta Ryan and Christine Buckley</li> <li>○ <u>Council assessment staff</u>: Amy Regado and Elizabeth Lambert</li> <li>○ <u>Applicant</u>: Shaun Lawer and Amrish Trivedi</li> <li>○ <u>Department staff</u>: Leanne Harris and Carolyn Hunt</li> </ul> </li> <li>• Briefing: 15 September 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Roberta Ryan</li> <li>○ <u>Council assessment staff</u>: Rosie Turner, Glen Mathews and Scott Fatches</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley</li> </ul> </li> <li>• Final briefing to discuss Council's recommendation: 27 June 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara and Christine Buckley</li> <li>○ <u>Council assessment staff</u>: Geoffrey Keech and Glen Mathews</li> <li>○ <u>Department staff</u>: Lisa Foley</li> </ul> </li> <li>• Applicant Briefing: 27 June 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara and Christine Buckley</li> <li>○ <u>Council assessment staff</u>: Geoffrey Keech and Glen Mathews</li> <li>○ <u>Department staff</u>: Lisa Foley</li> <li>○ <u>Applicant representatives</u>: Shaun Lawer and Jan Duebbelde</li> </ul> <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report</p> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report

## SCHEDULE 2

### 1. Prescribed Conditions

- (a) The work must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (c) 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:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) 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
  - (iii) 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.

- (d) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - a. the name and licence number of the principal contractor, and
    - b. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - a. the name of the owner-builder, and
    - b. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under (d) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

## 2. Approved Documentation

The development consent incorporates this schedule of conditions and the plans and documents referenced and stamped as follows:

(a) Plans Reference:

Plans prepared by: ACOR Project Number: NW 160098			
Name of Plan	Drawing No.	Issue	Date
Civil Works Design Package	C3.01	E	19 August 2016

Plans prepared by: The Plan Centre			
Name of Plan	Drawing No.	Issue	Date
Plans and Elevations	A01 of 01	5	15 November 2016

Plans prepared by: Mansfield Urban Project Number: 1716			
Name of Plan	Drawing No.	Issue	Date
Landscape Planting Plan	CC-LP-01	B	27 June 2017

(Modification B)

Plans prepared by: AP Business and Technology Consultancy; Project Number:			
Name of Plan	Drawing No.	Revision	Date
Main Structures – Roof Layout and Elevations	201_016_101_E	9	27/03/23
Main Structures – Floor Plan and Sections	201_016_101_S	9	-
Biofilter, Hum and PWT Structures	201_016_103	8	
Plans prepared by: GHD; Job Number: 21-25603			
Name of Plan	Drawing No.	Revision	Date
Ausgrid Power Supply – Site Plan – Proposed Arrangement	SK005	B	18 July 2016
Remondis Leachate Site Options Assessment Site Layout	SK001	A	10 November 2016

(b) Document Reference:

**Remondis Australia Pty Ltd Awaba Alternative Waste Treatment Facility –  
Application to Modify Consent DA/1940/2013**

Dated: November 2016

(Modification B)

Document	Reference	Author	Date
Noise Impact Assessment Modification	Lake Macquarie ORRF Rev 0	GHD	10 January 2022
Revised Noise Impact Assessment (technical memorandum)	Project No. 12563453	GHD	14 June 2023
Revised odour modelling	REMONDIS AUSTRALIA – AWABA ORRF OPEN WINDROW COMPOSTING PROPOSAL REVISED ODOUR MODELLING RESULTS	The Odour Unit	11 January 2023

Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- (i) Any amendments made by Council on the approved plans or documents;
- (ii) Any notes, markings, or stamps on approved plans or documents, and
- (iii) Any conditions contained in this consent.

### 3. Construction Certificate

Prior to the commencement of building work or subdivision work, a Construction Certificate shall be obtained.

**Note:** If the Construction Certificate is issued by a Principal Certifying Authority that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval. (Clause 142(2) EPA Regulation 2000).

### 4. Occupation Certificate

The development shall not be occupied or used prior to the issuing of a Final Occupation



Certificate or Interim Occupation Certificate by the Principal Certifying Authority. Where an Interim Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

## **5. Commencement of the Use of the Land**

The approved use of the land shall not commence until all relevant conditions of this consent have been complied with and a Final or Interim Occupation Certificate has been issued.

Where an Interim Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

## **6. Works Under this Consent (modification B)**

Construction works included in this consent include:

- stormwater drainage and leachate dam excavation and construction;
- concrete works including those required for the kerbside organics receival building;
- construction of weighbridge, receival hall, office and education centre building and site fencing;
- construction of the tunnel and bio-filter structures;
- Partial enclosure of the receival hall and installation of roof-mounted exhaust fans;
- construction of a leachate barrier beneath the compost and product material;
- construction of product storage bays;
- construction of internal road network and carparking areas;
- process equipment installation duct works, hydraulic works and electrical works;
- plant commissioning and start up;
- high voltage power upgrades;
- reticulated sewer infrastructure to facility;
- operation of the alternate waste treatment facility – composting facility, in accordance with the conditions of this consent.

This development consent does not include any clearing of the site, earthworks or retaining of the earthworks.

Separate development consent is require for the removal of any vegetation / clearing or earthworks.

The works to the receival hall shall be completed no later than six months from the date of approval of modification B.

## **7. Environment Protection Authority Requirements**

The Environment Protection Authority (EPA) has reviewed the information provided and has determined that it is able to issue a licence for the proposal, subject to a number of

conditions. The person entitled to the benefit of the consent shall make a separate application to EPA to obtain this licence.

The person entitled to the benefit of the consent shall apply for an environment protection licence application pursuant to Schedule 1 of the Protection of the Environment Operations Act 1997 ("POEO Act").

When submitting the licence application the proponent shall ensure a proposed surface water-monitoring program with appropriate upstream, discharge and downstream monitoring points accompanies it. The EPA considers it appropriate that a surface water monitoring program be developed by the proponent for the purposes to ensure that the water quality is not being impacted by the development and complies with the development proposal.

The EPA will require the proponent to prepare, test and implement a Pollution Incident Response Management Plan in accordance with Section 153A of the POEO Act.

## **7A. Odour Management and Monitoring (modification B)**

### **Biofilter**

The biofilter shall be monitored a minimum of every six months (or higher frequency as recommended by the manufacturer) on an ongoing basis to ensure it is operating at design performance. Performance records shall be maintained for inspection at any time by Council or the EPA.

### **Validation report**

Within 6 months from the date of operation of the works approved under modification B a validation report shall be submitted to Council confirming the actual odour emissions from the facility is consistent with the modelled emissions from the revised odour report (refer approved documents). The validation report shall be prepared no earlier than when the existing static piles have been fully replaced with windrows.

### **Field surveys for odour**

Field odour surveys should be carried out on a weekly basis. A record of all field surveys must be kept on site and include (at a minimum) the following details:

- Date and time of field survey
- Meteorological conditions at the time of the field survey
- The description of any odour observed and the location where the odour was detected
- The action taken in response to any odour detected. If no action was taken, the reason no action was taken.

### **Management plans and strategies**

After implementation of the management measures and associated works approved under modification B, the Odour Management Strategy and Odour Management Community Engagement Management Plan shall be updated to reflect the changes in operations and management measures. A copy of the revised strategy and plan shall be submitted to Council.

### **Complaints management**

Keep a record of all complaints received. The record must include (at a minimum) the following details:

- 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 including a description of the odour and the location where the odour was detected,
- The meteorological conditions at the time the odour was reported,
- The action taken in relation to the complaint, including any follow-up contact with the complainant, and
- If no action was taken, the reason why no action was taken.

#### **8. Environment Protection Authority General Terms of Approval**

The person entitles to the benefit of this consent shall obtain an Environment Protection Licence (EPL) for the facility. The development shall operate in accordance with the EPL at all times.

#### **9. Mine Subsidence Board General Terms of Approval**

1. The development being undertaken in accordance with the details set out on the application for, any information submitted with the application and the plans submitted, as amended or as modified by the conditions of this approval.
2. Any proposal to modify the terms or conditions of this approval, whilst still maintaining substantially the same development to that approved, will require the submission of formal advice for consideration by Subsidence Advisory NSW. If amendments to the design result in the development not remaining substantially the same as that approved by this approval, a new Application will have to be submitted to Subsidence Advisory NSW.
3. Submit a final *"Engineering Impact Statement"* prior to commencement of detailed design for acceptance by Subsidence Advisory NSW (SANSW), it shall identify:
  - a) Mine subsidence design parameters adopted
  - b) The main building / structures elements and finishes
  - c) Proposed mine subsidence mitigation measures
4. Submit a final design for SANSW's approval prior to commencement of construction, incorporating the design measures identified in the final *"Engineering Impact Statement"*. This shall include certification by a qualified structural engineer to the effect that the improvements will remain *"safe, serviceable and any damage from mine subsidence will be slight, localised and readily repairable"* taking into consideration the mine subsidence parameters:
  - a) Maximum vertical subsidence: 1100 mm
  - b) Maximum ground strain: 2 mm/m (tensile) & 4 mm/m (compressive)
  - c) Maximum tilt: 11 mm/m
  - d) Maximum radius of curvature: 5 km (hog) & 2.5 km (sag)
5. Demonstrate there are no geological anomalies such as faults that are likely to cause mine subsidence strains, tilts or curvature in excess of the design parameters.

Otherwise allow for likely anomalous mine subsidence parameters in excess of item 2.

6. The final design shall ensure:
  - a) It is consistent with the design accompanying the development application.
  - b) The design of drainage structures including pipes, gutters and wet areas shall incorporate an additional grade for tilt due to mine subsidence, in excess of the minimum Code requirements.
  - c) All services and equipment shall be designed for the effects of mine subsidence. For pipes this may necessitate flexible joints, flexible bedding surround and flexible building connections / penetrations.
  - d) All services and equipment shall be located to facilitate ease of repair and replacement. Services under structures are to be minimised or otherwise routed to the nearest perimeter line.
  - e) Ensure internal finishes are installed in accordance with relevant codes and standards and industry best practice guidelines with additional provision for mine subsidence.
  - f) Ensure there is suitable provision for articulation jointing in structural elements. All control joints including articulation for mine subsidence are to be shown on the design plans and elevations.
  - g) Ensure there is suitable provision for isolation / expansion joints between the building slabs and connecting structures.
  - h) Roads and pavement areas are to be designed as a flexible pavement which may include a gravel, bitumen or asphalt surface course. If concrete is required, it shall be designed so any damage will be of a slight classification. Concrete design would include articulation jointing with expansion and crack control joints or sacrificial sections where appropriate.
7. Establish permanent survey marks to AHD so the tunnel structure can be monitored should settlement occur. Base data is to be established following installation and a further set of readings taken after 12 months. These details shall be forwarded to SANSW.
8. Upon completion of construction, submit work-as-executed drawings certified by a qualified structural engineer stating that construction was in accordance with the final design accepted by SANSW.
9. This consent supersedes the previous consent issued by the Mine Subsidence Board dated 8 March 2016.
10. This conditional approval expires 5 years after the date of issue.

#### **9A. Mine Subsidence Board General Terms of Approval (Modification B) GENERAL**

##### **Plans, Standards and Guidelines**

1. These General Terms of Approval (GTAs) only apply to the development described in the plans and associated documentation relating to DA DA/1940/2013/B and provided to Subsidence Advisory NSW.

Any amendments or subsequent modifications to the development renders these GTAs invalid.

2. This approval expires 5 years after the date the approval was granted if building, engineering or construction work relating to the application has not physically commenced on the land.

## 10. Roads and Maritime Requirements

Prior to the commencement of operations of the Waste Management Facility – Composting Facility the road works outlined in Condition 33 of the Project Approval 10\_0139 dated 14 September 2013 for the adjacent Awaba Waste Management Facility Expansion Project (10\_0139) shall be completed to the satisfaction of Roads and Maritime.

All works associated with the subject development shall be undertaken at full cost to the developer and at no cost to Roads and Maritime or Council and shall be to Council requirements.

## 11. Bushfire Requirements (modification B)

### Water and Utilities

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

In recognition of unreliable water supply to the subject site, a 40,000 litre static water supply must be provided for fire fighting purposes in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:

- a connection for firefighting purposes is located within the inner protection area (IPA) or non-hazard side and away from the structure;
- 65mm Storz outlet with a ball valve is fitted to the outlet;
- ball valve and pipes are adequate for water flow and are metal;
- supply pipes from tank to ball valve have the same bore size to ensure flow volume;
- underground tanks have an access hole of 200mm to allow tankers to refill direct from the tank;
- a hardened ground surface for truck access is supplied within 4 metres;
- above-ground tanks are manufactured from concrete or metal;
- raised tanks have their stands constructed from non combustible material or - bush fire-resisting timber (see Appendix F of AS 3959);
- unobstructed access can be provided at all times;
- underground tanks are clearly marked;
- tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;
- all exposed water pipes external to the building are metal, including any fittings;

- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack; any hose and reel for firefighting connected to the pump shall be 19mm internal diameter; and
- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005.

## 12. Ausgrid Requirements

### Proximity to Existing Network Assets

There are existing overhead electricity network assets located near or adjacent to the development. It is a statutory requirement the minimum Workcover Code of Practice distances be maintained.

### Clearance to “As Constructed” Development assessed to be Compliant

Based on the design of the development provided, it was identified the “as constructed” minimum clearances will not be encroached by the development. The existing overhead mains may require relocating should the minimum safety clearance be compromised during construction.

### Existing Electricity Easements

Ausgrid currently has two 132,000 volt power lines and one 11,000 volt power lines running near or adjacent to the development. These assets form part of Ausgrid’s transmission network and are accessed by Ausgrid for routine maintenance and or emergencies via a right of carriageway. Advanced consultation is required regarding any proposed changes in access to the power lines or if works are proposed within the existing easements.

## 13. Acoustic Certification

The recommendations contained in the noise impact assessment prepared by GHD Project Number 12563453; Revision Number 0; dated 10 January 2022 and technical memorandum, dated 14 June 2023, shall be incorporated into the design and construction of the development.

A suitably qualified acoustic consultant shall be engaged to assist with the preparation of the final building plans and specifications to ensure compliance with any acoustic conditions and that no other noise nuisance is created to the neighbourhood.

Upon completion of the works and prior to the issue of an Occupation Certificate, a certificate shall be provided to the Principal Certifying Authority from a suitably qualified acoustic consultant certifying that the works have been completed in accordance with their requirements and the development or proposed use is capable of operating in accordance with the design criteria.

Within 90 days of operation a suitably qualified acoustic consultant shall test, measure and certify that the development is operating, at that time, in accordance with the approved acoustic report.

#### **14. Construction and Operational Environmental Management Plan**

A construction and operational environmental management plan (CEOMP) shall be prepared and implemented for the proposed works. The CEOMP shall detail appropriate mitigation measures for a range of construction activities and shall include but not be limited to the following:

- erosion and sediment control;
- slope stability, uncovering of contamination or contaminated materials;
- acid sulfate or saline soils;
- spill management, dust suppression;
- construction noise and vibration;
- waste management; including
  - types and amounts of waste likely to be generated;
  - waste storage issues;
  - methods of transport and disposal of wastes;
  - opportunities for waste reduction, re-use of materials and recycling, and
  - requirements for compliance with the Waste Avoidance and Resource Recovery Act 2001.
- construction traffic management plan (CTMP), including vehicle routes, truck numbers, hours of operation, access and parking arrangements, signage requirements to warn road and landfill users of temporarily changed traffic conditions and the like;
- air quality and dust management / mitigation procedures;
- noise and vibration management / mitigation procedures prepared in accordance with the Interim Construction Noise Guideline (DECC, 2009b), operation of plant and machinery in a quiet and efficient manner and the inclusion of a noise and vibration complaints register and the management of complaints;
- Fire Management Plan to address the risks at the site, including the availability of fire-fighting equipment, controls on green waste stockpiles (including location and volume), smoking on the site, use of open flames and emergency procedures;
- hazard control measures for other hazards, including land slip, accidental spills, significant contamination, illegal entry to the site, vandalism, mine subsidence, flooding and the like, and
- any other matter relevant to this site or the proposed works.

The air quality and dust management / mitigation procedures shall include:

- Procedures for controlling and managing dust at the site;
- Compliance with emission concentration limits outlined in the Protection of the Environment Operations (Clean Air) Regulation 2010;

- Roles, responsibilities and reporting requirements;
- An outline of the dust control inspection regime;
- Potential contingency measures for dust control where standard measures are deemed ineffective;
- Conduct regular visual inspections of weather conditions and dust levels during works;
- All vehicles on site should be confined to a designated route with an enforced speed limit;
- Number of trips and trip distances should be minimised where possible;
- Movement and removal of materials from the site should be planned and coordinated to avoid unnecessary trips;
- Utilisation of wheel wash facility to prevent soils from leaving the site;
- Dirt that has been tracked onto sealed roads should be cleaned as soon as practicable;
- If trucks are required to carry excess spoil from the site they should be covered and tailgates should be effectively sealed prior to leaving the site;
- When conditions are excessively dusty and windy a water truck (for water spraying of haulage routes and spoil stockpiles) should be used;
- Use of a water cart to dampen surfaces prior to grading/scraping during earthworks;
- Limit vegetation clearance, topsoil stripping and excavation during periods of high winds;
- Limit the clearing of vegetation and topsoil to the designated footprint required for Stage 2 construction works;
- Avoid unnecessary vegetation clearing so that wind erosion from exposed ground is minimised;
- Minimise the number of stockpiles on site and the number of work faces on stockpiles; and
- When material is removed or added to a stockpile, the area should be compacted to promote particle cohesion.

The CEOMP shall be prepared and approved by Council prior to any works commencing on the site. The requirements of the CEOMP shall be implemented at the site at all times.

## **15. Traffic Noise Management Strategy**

A Traffic Noise Management Strategy (TNMS) shall be developed, for the purposes of construction and operational noise impacts. The TNMS shall be prepared and submitted to Council for approval prior to issue of the first construction certificate for the development. The TNMS shall address improved operation transport, to ensure that feasible and reasonable noise management strategies for vehicle movements associated with the facility are identified and applied, that includes but are not necessarily limited to the following:

- driver training to ensure that noisy practices such as the use of compression engine



- brakes are not unnecessarily used near sensitive receivers;
- best noise practice in the selection and maintenance of vehicle fleets;
- movement scheduling where practicable to reduce impacts during sensitive times of the day (trucking shall be contained to day operations only);
- communication and management strategies for non-licensee/proponent owned and operated vehicles to ensure the provision of the TNMS are implemented;
- a system of audited management practices that identifies non-conformances, initiates and monitors corrective and preventative action (including disciplinary action for breaches of noise minimization procedures) and assesses the implementation and improvement of the TNMS;
- specific procedures to minimize impacts at identified sensitive areas, and
- clauses in conditions of employment, or in contracts, of drivers that require adherence to the noise minimization procedures and facilitate effective implementation of the disciplinary actions for breaches of the procedures.

#### **16. Cultural Heritage Management Plan**

All works shall comply with the Cultural Heritage Management Plan (CHMP) prepared for Stage 1 works, as amended, if required.

#### **17. Protection of Aboriginal Cultural Heritage**

Temporary barrier fencing shall be erected 50 metres from the isolated find (Awaba AWT IF-1) and 50 metres from the creek line, which runs north south along the eastern boundary of the site and is partly located within the north eastern portion of the proposed works area. The temporary barrier fencing shall be in the form of star pickets with high visibility PVC fencing and shall be clearly sign posted as a “No Go Area” or “Exclusion Zone”. The temporary fencing shall be installed prior to any works commencing on site, including clearing, earthworks or the like. The temporary fencing shall remain in place until all works under this consent are completed and during construction works for the waste management facility.

Permanent fencing shall be erected 50 metres from the isolated find (Awaba AWT IF-1) and 50 metres from the creek line, which runs north south along the eastern boundary of the site and is partly located within the north eastern portion of the proposed works area. The permanent fencing shall be in the form of pickets with high-tension wire.

The permanent fencing shall remain in place for the long-term operation of the waste management facility.

Site inductions shall be provided to all personnel working within the site, such that they are made aware of the “No Go Areas” or “Exclusion Zones”.

#### **18. Top Soil Removal Contained on Site**

All top soils removed by any excavation works shall be retained within the confines of the development footprint and shall not be transported off the construction site due to the possible inclusions of Awabakal and Biraban cultural heritage within the soil.

## **19. Erosion and Sediment Control Plan**

Prior to any works commencing onsite which do not require a Construction Certificate, appropriate erosion and sediment controls shall be installed in accordance with Development Control Plan 2014 (DCP 2014).

The final Erosion and Sediment Control Plan (ESCP) / Soil and Water Management Plan (SWMP) shall be submitted to the certifier prior to the approval of the first Construction Certificate for the development. The plan shall contain information required for the area of disturbance of the development or its distinct and separate stages in accordance with DCP 2014.

The final plan shall include a signed and dated Statement of Compliance stating (in full):

- a) This plan has been developed, certified and signed off by an appropriately qualified and experienced professional in erosion and sediment control;
- b) The plan complies with the requirements for the area of disturbance in accordance with DCP 2014;
- c) The plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, will achieve the water release criteria of 50mg/L of total suspended solids (TSS); and
- d) All erosion and sediment control measures are in accordance with DCP 2014.

The final ESCP / SWMP and the Statement of Compliance shall be provided to Council with the Construction Certificate documentation in accordance with clause 142(2) of the Environmental Planning and Assessment Regulation (NSW) 2000.

All erosion and sediment controls shall be appropriately managed throughout the development to prevent pollution until the land is considered erosion resistant.

Any pollution from site shall be cleaned up immediately and appropriate repairs made to onsite controls.

## **20. Section 68 Approval**

Approval for on-site wastewater treatment shall be obtained through a section 68 Local Government Act 1993 approval, from Council, prior to the issue of the first Construction Certificate for the development, unless connection to the reticulated sewer is secured.

## **21. Category 2 Landscaping**

Native landscaping including groundcovers, grasses, shrubs and small shade canopy trees shall be implemented in areas dedicated to landscaping as nominated on:

### **Landscape Planting Plan**

Prepared by: Mansfield Urban

Project Number: 1716 Drawing

Number: CC-LP-01 Revision: B

Dated: 27 June 2017.

Landscape works must conform to planting densities comprising plants at nominated spacings in all areas dedicated to planting. Planting densities comprising shrubs at a minimum one plant/m<sup>2</sup>, groundcovers/low planting at a minimum of two plants/m<sup>2</sup> and trees at a minimum one tree/20m<sup>2</sup> (pending species selected) to be nominated.

Planting shall comply with the requirements of Planning for Bushfire Protection 2006.

Planting to detention and bio-detention basins shall comprise species from the *LMCC Coastal and Streambank Planting Guide* and *Landscape Design Guidelines* available on Council's website.

Lawn areas shall be minimised, with a hard garden retaining edge (timber or concrete edge) to all garden bed areas adjoining lawn. Turf shall be avoided adjacent to bushland.

Surfaces implemented and all landscaping to be covered with minimum 75mm mulch to aid plant establishment. Feature shade trees adjoining parking areas shall be planted at minimum, 45L pot size.

Wheelstops to AS2890 must be implemented to parking spaces fronting path and disabled access.

All landscape works to be maintained to achieve continuous healthy growth improving amenity and aesthetics over the site and meeting the aims for development in the zone.

At the practical completion of landscape works, the consultant who prepared the documentation shall submit to the Principal Certifying Authority a Landscape Compliance Report prior to issue of Occupation Certificate that establishes satisfactory completion of the landscape works approved by this consent.

At the completion of landscape works, a Landscape Compliance Report shall be submitted to the Principal Certifying Authority prior to Occupation Certificate that establishes satisfactory completion of the landscaping works approved by this consent.

All landscaping shall be permanently maintained.

## **22. Dial Before You Dig**

Prior to commencement of work, the free national community service "Dial Before You Dig" shall be contacted on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries should provide the property details and the nearest cross street/road.



## **23. Building Waste**

Prior to any construction work commencing, containment of building waste materials shall be provided within the boundaries of the building site, above natural or excavated ground level, by a screened area of silt stop fabric or shade cloth, having minimum dimensions of 2.4 x 2.4 x 1.2 metres high OR equivalent size waste disposal bin.

The enclosure or bin shall be maintained for the term of the construction to the completion of the development.

The enclosure or bin shall be regularly cleaned to ensure proper containment of the building wastes generated on the site.

Appropriate provision is to be made to prevent wind blown rubbish escaping from the containment.

#### **24. Site Amenities**

Toilet facilities shall be available or provided at the work site before works begin and shall 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 must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an approved on-site effluent disposal system under the Local Government Act 1993, or
- (c) be a temporary chemical closet.

#### **25. Noise - Construction Sites**

The operating noise level of construction site operations, including machinery, plant and equipment when measured at any affected premises, shall be evaluated and comply with the requirements of the NSW Office of Environment and Heritage publication "Interim Construction Noise Guideline" July 2009.

##### **Approved Construction Times**

The approved hours for construction of this development are – Monday to

Friday – 7:00am to 6:00pm.

Saturday – 8:00am to 1:00pm.

No construction work shall take place on Sundays or Public Holidays.

##### **Construction Periods in Excess of 26 Weeks**

A Noise Management Plan (NMP) shall be provided to Council prior to the issue of the first construction certificate. Such plan shall be prepared with the assistance of a suitably qualified acoustic engineer, indicating whether the use of machinery, plant and equipment during those operations can be completed without causing offensive noise (as defined in the *Protection of the Environment Operations Act 1997*) in the neighbouring area. The NMP shall be complied with at all times during the construction period and shall identify any mitigation measures to control noise, noise monitoring techniques and reporting methods, likely potential impacts from noise and a complaints handling system.

Operational times may be amended with the prior written advice of Council's General Manager or delegate.

#### **26. Construction Site Vibration**

Vibration on surrounding land from construction site operations shall comply with the Office of Environment and Heritage publication "Assessing Vibration: a technical guideline" February 2006.

## **27. Restriction of Site Access to Prevent Unauthorised Filling**

The property entry and exit points shall be secured at all times to prevent the unauthorised entry of vehicles, and to ensure that the site manager can control and prevent dumping of waste and potentially contaminated material whilst fill material is being imported or managed on site.

## **28. Management of Site - Erosion Prevention and Sediment Control**

All disturbed areas shall be revegetated or rendered erosion resistant in accordance with Section 2.1.11 of *Lake Macquarie City Council Development Control Plan 2014* as soon as practical, and no later than the timeframes specified in *Managing Urban Stormwater: Soils and Construction "The Blue Book" 4<sup>th</sup> Edition, Landcom, 2004*.

## **29. Topsoil and Stockpiles of Materials**

Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping.

Stockpiles of topsoil, sand, aggregate, spoil or other material stored on the site that is capable of being moved by running water shall be stored clear of any drainage line or easement, natural watercourse, footpath, kerb, and/or road surface. Suitable sediment and erosion control devices shall be installed prior to the stockpile being created. The stockpile shall be treated so its surface is erosion resistant to wind and water action.

No stockpiles of topsoil, sand, aggregate, spoil or other material shall be located on the public footpath or road reserve.

## **30. Removal, Management and Transportation of Fill**

All excavated fill material that is to be removed from the site shall only be distributed to:

- (a) A NSW Office of Environment and Heritage licensed waste disposal facility. A copy of the receipts from the waste disposal facility shall be kept and shall be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer of Council upon request; or
- (b) A site which has a current development consent for the importation of fill material. A copy of the current development consent for the site to which the material is proposed to be distributed must be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer upon request.

All removed excavated material shall be transported and disposed of in accordance with the NSW Office of Environment and Heritage guidelines applicable at the time of removal.

## **31. Dust Suppression**

During the extraction, removal, and transportation of material associated with the works, the person having the benefit of the consent shall ensure that airborne dust is contained within the work site or transport vehicles, and does not impact on the amenity of the surrounding environment.

Effective environmental controls and practices shall be implemented and maintained to the satisfaction of Council or the Principal Certifying Authority.

### 32. Stormwater Disposal - Stormwater Detention and Harvesting

The Stormwater Detention and Harvesting system submitted with any Construction Certificate shall be generally in accordance with the stormwater strategy identified in the EIS, the additional information submitted for the Section 96 application and the supplementary information provided by GHD on 29 March 2017 and must comply with the following:

- (a) Stormwater shall be disposed of through a piped system designed in accordance with Australian Standard AS 3500 by a suitably qualified professional. Qualifications shall be in accordance with Part DQS.06 of Council's Engineering Guidelines.
- (b) Stormwater detention measures shall be constructed and maintained to ensure that the development does not increase upstream or downstream flood levels.
- (c) Detention storage shall be calculated and designed in accordance with "Australian Rainfall and Runoff 1987" and the Lake Macquarie City Council guideline – "Handbook for Drainage Design Criteria" and shall conform to the specifications and standards contained in the LMCC Engineering Guidelines.
- (d) Stormwater harvesting measures shall be constructed and maintained in accordance with clause 2.5.4 of DCP 1 (and supporting guidelines).

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first:

- (e) All drainage works shall be carried out generally in accordance with the approved Construction Certificate plans.
- (f) A Works As Executed Plan is to be submitted to the Principal Certifying Authority that shows any changes (in different colour) to the approved Construction Certificate plans and endorsed by a registered surveyor.
- (g) Certification by the engineer, is to be submitted to the Principal Certifying Authority that any changes comply with the requirements (a), (b), (c) and (d) as shown above. Note: This may be shown on the Works As Executed Plan.

Engineering certification shall be provided that shows that all drainage works have been carried out in accordance with the approved plans before the issue of any Occupation Certificate.

### 33. Car Parking and Allocation of Spaces

A total of 17 car parking spaces shall be constructed on the site in accordance with the minimum requirements of the Australian Standard AS/NZS 2890 as current at the time of construction, and maintained on the land in accordance with the approved plans.

The spaces shall be allocated in the following proportions:

Employee	5
Visitors	11
Disabled car spaces	1

The car parking spaces are to be identified on-site by line marking and must be numbered. The car parking provided shall only be used in conjunction with the uses contained within the

development and except as provided for in these conditions are not to be used for any other use.

The required visitor car parking spaces shall be clearly marked and signposted for the sole use by visitors.

The required disabled car parking spaces shall be clearly marked and signposted for the sole use by disabled persons.

All car parking spaces, line marking and signage shall be completed prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first.

#### **34. Parking Areas and Access Ways**

All parking areas and access ways shall be designed, constructed, sealed and drained in accordance with the standards nominated in Council's Development Control Plan 1, Volume 1 and 2 Engineering Guidelines and the Australian Standard 2890.

Areas of the site that will be used by vehicles for transit purposes and which are not proposed to be constructed of concrete or bitumen, shall be finished in a crushed rock or gravel surface that will not generate dust. All parking areas and access ways, line marking and signage shall be completed prior to the issue of an Occupation Certificate.

#### **35. Fencing**

Prior to issue of the occupation certificate the site shall be fenced with security fencing to secure the site. Fencing shall consist of open style palisade or chain mesh fencing. Fencing shall not be of light colouring and shall be mid to dark shades.

#### **36. External Material**

External cladding materials, including roof and wall materials shall be finished in colours in the mid to dark green range to blend with the natural environment.

External cladding materials such as roofs, walls and windows shall have low-reflective properties.

#### **37. Accessible Amenities**

Amenities provided within the facility shall include accessible amenities to accommodate people with a disability. The amenities and access to the amenities and all public areas shall comply with the relevant Australian Standard. Details shall be provided with the Construction Certificate.

#### **38. Fix Damage Caused by Construction Works**

Any damage or injury caused to a public road or associated structures including footpaths, drains, kerb and gutter and utility services caused as a consequence of the construction works shall be made good at the cost of the person with the benefit of the consent.

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter in accordance with Council's standards to match finished adjoining kerb and gutter. All replacement works are to be completed to the satisfaction of Council prior to the issue of an Occupation Certificate at the cost of the person with the benefit of the consent.

### **39. Maximum Capacity**

The maximum capacity of the **Waste Management Facility – Composting Facility** shall not exceed 44,000 tonnes per annum.

### **40. Waste Sources**

The **Waste Management Facility – Composting Facility** shall only receive and process organic materials and green waste drop off material. The organic collection shall comprise green waste and food waste. The facility shall not receive, collect or treat sewage, sewage sludge or grease trap waste.

### **41. Noise – Ongoing Operation of Machinery, Plant and Equipment**

The Laeq (15 minute) operating noise level of machinery, plant and equipment when measured at the boundary of the nearest residential premises shall comply with either the amenity or intrusiveness criteria calculated in accordance with the NSW Office of Environment and Heritage Industrial Noise Policy. For assessing amenity criteria, the area shall be categorised in accordance with the guidelines outlined in Chapter 2 of that Policy.

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, certification from a suitably qualified acoustic consultant shall be submitted to the Principal Certifying Authority, demonstrating compliance with the above.

### **42. Noise - Sleep Arousal**

The L1 (one minute) operating noise level during night time hours of the premises, when measured at the window of any affected residential dwelling, shall comply with the NSW Office of Environment and Heritage sleep arousal criteria, calculated in accordance with Chapter 19 of the NSW Office of Environment and Heritage Noise Control Manual.

### **43. Emissions**

There shall be no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*, vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the development.

## **General Terms of Approval**

The following approval bodies have given general terms of approval in relation to the development:

- Mine Subsidence Board
- Environment Protection Authority
- **NSW Rural Fire Service**

## **Right of Appeal**

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Division 8.3 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court.



Note: The Environmental Planning and Assessment Act 1979 does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development) either unconditionally or subject to conditions.

### **Right of Review**

Section 8.2 and 8.3 of the Environmental Planning and Assessment Act 1979 provides the applicant may request the Council to review the determination.

Note: A request to review the determination of a development application pursuant to Section 8.2 and 8.3 of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:

- (a) A determination to issue or refuse to issue a complying development certificate, or
- (b) A determination in respect of designated development, or
- (c) A determination in respect of integrated development, or
- (d) A determination made by the Council under Division 4.6 in respect of an application by the Crown.

### **Independent Planning Commission**

The **Independent Planning Commission** has not conducted a public hearing in respect of this application.

### **Advisory Notes:**

#### **Hunter Water Requirements**

The owner is required to comply with the requirements of the Hunter Water Act 1991, relevant to the development. If you require further information, please contact Hunter Water on 1300 657 657.

