

General Terms of Approval - Issued

Notice No: 1630200



City of Newcastle Council
12 Stewart Avenue
Newcastle West NSW 2302

Attention: Damian Jaeger

Notice Number 1630200
Date 27-Jun-2023

Re: Review of Environmental Impact Statement - Newcastle Organics Processing Facility

Issued pursuant to Section 4.46 Environmental Planning and Assessment Act 1979

I refer to the request for General Terms of Approval (GTA) from the NSW Environment Protection Authority (**EPA**) for the proposed Newcastle Organics Processing Facility (**OPF**), Concurrence and Referral (**CNR**) 40366, application DA 2022/00572.

The EPA has reviewed the documentation provided for the proposed OPF, including the amended Environmental Impact Statement (**EIS**) and Appendix K '*Odour and Greenhouse Gas Assessment*' prepared by ERM Australia Pacific Pty Ltd and dated 29 March 2023.

The EPA is satisfied with the information provided and has determined it is able to issue GTA's for this proposal.

In assessing the proposal, the EPA has identified environmental issues relating to odour emissions and controls at the Premises, that require the proponent to undertake additional planning and operations. If the City of Newcastle Council grants development consent for this proposal, the EPA's recommended conditions in Attachment A, should be considered as condition of consent. The recommendations include:

1. Odour Contingency Plan,
2. Operating Conditions,
3. Air Monitoring Requirements,
4. Reporting Requirements.

The EPA's concerns are discussed in further detail below.

Mitigation measures are consistent with best practice, however odour is likely to be detectable beyond the site boundary

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The EPA understands the proposed OPF is a fully enclosed composting facility with the receiving, composting, maturation and storage stages being undertaken in an enclosure operated under negative pressure. The EPA considers these mitigation measures are consistent with best practice. Odour emissions from the OPF are proposed to be captured and treated by a biofilter.

The amended EIS states that odour modelling does not predict exceedances of the 2 Odour Unit (OU) impact assessment criteria contained in the EPA's *Approved Methods for Modelling and Assessment of Air Pollutants in NSW*. While compliance with the impact assessment criteria indicates that offensive odour impacts may not occur, it does not imply that odour will not be detected beyond the site boundary.

Further development of the Odour Contingency Plan

The EPA notes the 'Odour Contingency Plan' submitted as an addendum to Appendix K 'Odour and Greenhouse Gas Assessment', does not consider 'business as usual' operations at the OPF as a potential odour issue. However, the EPA argues that a 'no odour' outcome from the OPF is not readily achievable, and it is likely that odour will be detectable beyond the site boundary. Should the proposed mitigation measures be unsatisfactory in reducing odour impacts offsite, then a reduction in operating capacities, activities or change in feedstock may be the only avenue to resolve the immediate odour impacts.

The EPA requests the proponent to develop a plan, that determines how a 'temporary' reduction in processing capacity at the OPF can be efficiently implemented, should this operational contingency be required. This will likely have implications on the storage capacity at the OPF, and the amount of material that can be received onsite. The EPA notes the designed receival hall has the capacity to accommodate 2-3 days of feedstock storage. The EPA's concerns are for scenarios that extend beyond this timeframe. Therefore, the plan should consider, and where necessary, include measures for the rapid removal and diversion of relevant waste materials. The logistics for the transport and alternative receival options should be determined prior to consent, rather than at the time when offsite is required. All relevant stakeholders must be able to enact the operational contingency measures with short notice.

Operating the biofilter and ventilation system in a proper and efficient manner is paramount to minimising odour impacts.

The EPA highlights that biofilter performance can degrade over time, therefore due diligence is needed to ensure the biofilter is maintained and operated in a proper and efficient manner. Given the sites proximity to sensitive receptors and uncertainties associated with the modelling undertaken, the EPA recommends odour monitoring should occur on a six-monthly basis to ensure the biofilter is achieving the desired outcomes. This monitoring frequency is recommended as a condition of consent.

Environment Protection Licence Application

Should development consent be granted, the proposal will require an Environment Protection Licence under section 43 of the *Protection of the Environment Operations Act 1997*. The Applicant will need to make a separate application to EPA to obtain this licence. Attachment B includes conditions specific to the applicant's proposal, and mandatory conditions for all EPA licences.

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

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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.

If you have any questions, or wish to discuss this matter further please contact Carlo Eastaway on (02) 8275 1503.

Yours sincerely

.....

Jenny Lange

Unit Head

Environment Protection Authority

(by Delegation)

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Attachment A - Recommended Conditions of Consent

Conditions of Consent

1 Odour Contingency Plan

An Odour Contingency Plan (the Plan) must be developed and maintained for the Organics Processing Facility (OPF) to manage odour emissions and impacts on the surrounding community. This includes both residential and commercial receptors. The Plan must be developed by a suitably qualified and experienced person. The Plan must provide, but not be limited to, the following details:

- a) A description of all potential odour emitting activities at the premises.
- b) Plan(s) illustrating the potential odour emission points from the OPF.
- c) The odour complaint management procedure, including record keeping, investigations and communications.
- d) The odour control measures to be implemented at the OPF upon gaining approval and commencing operations.
- e) The operational contingency measures and practices at the OPF to mitigate potential odour impacts on the community.
- f) For each of the above identified odour control measures, provide the following:
 - i. 'Triggers' for implementing the operational contingency measure, such as odour complaints.
 - ii. Operational changes at the OPF, such as reductions in receiving, composting, maturation; and storage of materials.
 - iii. Detail how the licensee will execute any changes in operations at the OPF.
 - iv. Define who is responsible for implementing and maintaining the operational contingency measure.
 - v. Provide details of any third party that may support the removal of materials from the OPF and the details of any premises accepting materials from the OPF and the continued FOGO collection service.
 - vi. The timing required to implement operational contingency measures.
- g) How the effectiveness of all implemented control measures at the premises will be assessed.
- h) The timeframe and procedure for the ongoing review of the Plan.

2 Operating Conditions

- a) All screening, composting, maturation and storage of odour generating material must be undertaken in an enclosure fitted with a ventilation system.
- b) The ventilation system attached to any enclosure must be designed and operated to achieve negative pressure within the enclosure at all times
- c) All odorous air captured by the ventilation systems must be treated in a biofilter that minimises odour emissions as far as practicable.

3 Air Monitoring Requirements

Point # - Biofilter discharge

Pollutant	Units of measure	Frequency	Sampling
Odour	Odour Units	6 monthly	Special Method 1

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Special Method 1 means a minimum of 3 odour samples, spatially distributed across the outlet of the biofilter. Sample analysis must be conducted in accordance with OM-7 of the *Approved Methods for the Sampling and Analysis in of Air Pollutants in NSW*.

4 Reporting Requirements

The licensee must submit a Biofilter Monitoring and Assessment report in conjunction with the annual return. The Biofilter Monitoring and Assessment report must contain:

- a) A summary of the odour sampling, and results obtained as required under condition M<x>
- b) A summary of parameters monitored, and results obtained to inform ongoing operation of the biofilter in a proper and efficient manner. This includes but is not necessarily limited to measurements undertaken of airflow, moisture content, and pressure from key areas of the odour control system.
- c) A comparison of monitored parameters and odour sample results against key performance indicators for biofilter performance. This includes, but is not necessarily limited to consideration of key performance indicators relating to:
 - i. Odour concentration
 - ii. Odour character
 - iii. Control efficiency
 - iv. Airflow distribution
 - v. Moisture content
- d) Nominated actions, where a comparison in (c) identifies that key performance indicators are not being achieved. Any actions nominated must include a timeframe for implementation.

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Attachment B - Environment Protection Licence Conditions

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 DA2022/00572 submitted to City of Newcastle Council in May 2022;
- any environmental impact statement relating to the development; and
- all additional documents supplied to the EPA in relation to the development.

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 generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

Any waste received at the premises must only be used for 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.

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Code	Waste	Description	Activity	Other Limits
NA	General solid waste (putrescible)	Food Waste (as defined in Schedule 1 of the POEO Act)	Composting	
NA	General solid waste (non-putrescible)	Garden Waste (as defined in Schedule 1 of the POEO Act)	Composting	

L3. Noise limits

Noise emissions from the premises must be in compliance with the requirements of the EPA's *Noise Policy for Industry*.

Operating conditions

01. 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.

02. 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.

03. Odour

The licensee must not cause or permit the emission of any offensive odour from the premises.

Note: The POEO Act states that no offensive odour may be emitted from particular premises unless potentially offensive odours are identified in the licence and the odours are emitted in accordance with conditions specifically directed at minimising the odours are permitted. Where it is appropriate for a licence to identify and control offensive odours, conditions for the licence should be developed in consultation with the Air Technical Unit.

04. Dust

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

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

05 Emergency response

05.1 A copy of the current version of the Pollution Incident Response Management Plan (PIRMP) for the premises must be kept at the premises.

Note: A PIRMP is required under Part 5.7A of the Protection of the Environment Operations Act 1997 and its

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regulations. The PIRMP must document systems and procedures to deal with all types of incidents (e.g. spills, explosions or fire) that may occur at the premises or that may be associated with activities that occur at the premises and which are likely to cause harm to the environment. The PIRMP must be tested at least annually or following a pollution incident.

06. Stormwater/sediment control - Construction Phase

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

07. Stormwater/sediment control - Operation Phase

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

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. Requirement to monitor concentration of pollutants discharged

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

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Point

Pollutant	Units of measure	Frequency	Sampling
Odour	Odour Units	6 monthly	Special Method 1

Special Method 1 means a minimum of 3 odour samples, spatially distributed across the outlet of the biofilter. Sample analysis must be conducted in accordance with OM-7 of the *Approved Methods for the Sampling and Analysis in of Air Pollutants in NSW*.

M3 Recording of pollution complaints

M3.1 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.

M3.2 The record must include details of the following:

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

M3.3 The record of a complaint must be kept for at least 4 years after the complaint was made.

M3.4 The record must be produced to any authorised officer of the EPA who asks to see them.

M4 Telephone complaints line

M4.1 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.

M4.2 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.

M4.3 The preceding two conditions do not apply until 3 months after this condition takes effect.

Reporting conditions

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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.

R1.2 The licensee must submit a Biofilter Monitoring and Assessment report in conjunction with the annual return. The Biofilter Monitoring and Assessment report must contain:

- (a) A summary of the odour sampling, and results obtained as required under condition M<x>
- (b) A summary of parameters monitored, and results obtained to inform ongoing operation of the biofilter in a proper and efficient manner. This includes but is not necessarily limited to measurements undertaken of airflow, moisture content, and pressure from key areas of the odour control system.
- (c) A comparison of monitored parameters and odour sample results against key performance indicators for biofilter performance. This includes, but is not necessarily limited to consideration of key performance indicators relating to:
 - a. Odour concentration
 - b. Odour character
 - c. Control efficiency
 - d. Airflow distribution
 - e. Moisture content
- (d) Nominated actions, where a comparison in (c) identifies that key performance indicators are not being achieved. Any actions nominated must include a timeframe for implementation.

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.

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Period covered by Annual Return

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

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

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

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

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

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

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

Deadline for Annual Return

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

Notification where actual load can not be calculated

(Licences with assessable pollutants)

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

The notification must specify:

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

Licensee must retain copy of Annual Return

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

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

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

- a. the licence holder; or

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- 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.

R2 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

R2.1 Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.

R2.2 The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

Leachate Discharges to Surface Waters

R2.3 Whenever leachate is discharged to surface waters from the premises the licensee must notify the event to the EPA.

R2.4 The licensee must provide written details of any leachate discharge(s) to the EPA within 7 days of the date on which the incident occurred.

R2.5 The written details referred to in the above condition must be provided as a report. The report must include the following information:

- a. the volume of the leachate discharged and over what time period the discharge occurred;
- b. the date and time of the commencement of the overflow;
- c. the weather conditions at the time of the discharge, specifying the amount of rainfall on a daily basis that had fallen:
 - i) on the day(s) of the discharge; and
 - ii) for the one week period prior to the discharge.
- d. the most recent monitoring results of the chemical composition of the leachate;
- e. an explanation as to why the discharge occurred;
- f. the location(s) of the discharge;
- g. a plan of action to prevent a similar discharge in the future; and
- h. was the discharge permitted by this licence.

R3 Written report

R3.1 Where an authorised officer of the EPA suspects on reasonable grounds that:

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

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

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R3.2 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.

R3.3 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.

R3.4 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.

R4 Other reporting conditions

Recording of Fires

R4.1 The licensee must maintain a daily log and record the following data of fires at the site:

- a. Time and date when the fire was deliberately started or reported.
- b. Whether the fire was authorised by the licensee, and, if not, the circumstances which ignited the fire.
- c. The time and date that the fire ceased and whether it burnt out or was extinguished.
- d. The location of fire (eg. clean timber stockpile, putrescible garbage cell, etc).
- e. Prevailing weather conditions.
- f. Observations made in regard to smoke direction and dispersion.
- g. The amount of waste that was combusted by the fire.
- h. Action taken to extinguish the fire.

R4.2 The licensee or its employees or agents must notify the EPA of all fires at the premises as soon as practical after becoming aware of the incident.

General conditions

G1 Copy of licence kept at the premises or on the vehicle or mobile plant

G1.1 A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies.

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G1.2 The licence must be produced to any authorised officer of the EPA who asks to see it.

G1.3 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.