

General Terms of Approval

Notice No: 1641135



Central Coast Council
PO Box 20
Wyong, NSW, 2259
Submitted via CNR Portal

Attention: Jenny Tattam

Notice Number 1641135
Date 17-Jul-2024

General Terms of Approval - DA/2268/2023 Asphalt Processing Plant at 133 Somersby Falls Road, Somersby

Issued pursuant to Section 4.46 Environmental Planning and Assessment Act 1979

I refer to the development application (DA/2268/2023) and accompanying information provided for the proposed Asphalt Processing Plant at 133 Somersby Falls Road, Somersby received by the Environment Protection Authority (EPA) on 20 December 2023. The proponent has provided additional information in response to comments raised by the EPA in our letter dated 13 February 2024.

The EPA has reviewed the information provided and has determined that it is able to issue a licence for the proposal, subject to conditions. The applicant will need to make a separate application to the EPA to obtain this licence. The EPA website explains how to apply for a licence (<https://www.epa.nsw.gov.au/licensing-and-regulation/licensing>).

If Central Coast Council grants development consent for this proposal, the EPA recommends the following General Terms of Approval should be incorporated into the consent:

- Waste type permitted to be accepted for recovery or storage: General solid waste (non-putrescible).

Waste	Description	Activity	Tonnes
General solid waste (non-putrescible)	Reclaimed asphalt products, aggregates, road base or ballast	Resource Recovery & Waste Storage	See below

- The maximum amount of waste permitted to be received at the Premises in any reporting period is 125,000 tonnes.
- Hours of operation:

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- a. Construction work at the premises is permitted between 7am and 6pm Monday to Friday and between 8am and 1pm Saturdays and at no time on Sundays and public holidays.
- b. Operational activities at the premises are permitted during the daytime period 7am to 6pm Monday to Friday. No operation is permitted on weekends or public holidays.

These General Terms of Approval relate to the development as proposed in the documents and information currently provided to the EPA. The EPA notes the revised noise impact assessment titled "Stateline Asphalt Batching Plant Noise and Vibration Impact Assessment 133 Somersby Falls Road, Somersby NSW 2250 - doc ref: 221145_NIA_Rev5" dated 3 June 2024, proposes that the facility will operate during the daytime period only and has assessed noise impacts accordingly.

If 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 the EPA about the changes before the consent is issued. This will enable the EPA to determine whether its General Terms of Approval need to be modified.

Conditions for environment protection licence

I also draw your attention to Attachment A and Attachment B, which **should not** be included as conditions in the consent but are conditions intended for the environment protection licence for this proposal. Attachment A includes conditions specific to this proposal and Attachment B includes mandatory conditions for all EPA licences.

In assessing the proposal the EPA has identified an environmental issue that Central Coast Council may wish to consider in its overall assessment of the application:

1. Waste storage - the applicant proposes to received upto 125,000 tonnes of waste (reclaimed asphalt pavement and aggregates) at the premises per annum. The waste will be stockpiled prior to processing. An appropriate volume of waste that can be stored on site at any one time should be considered.

If you have any questions or wish to discuss this matter, further please contact Kristy Wilson on 02 9873 8527.

Yours sincerely,

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Rebecca Akhurst

Unit Head

Environment Protection Authority

(by Delegation)

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Attachment A – Specific conditions for DA/2268/2023

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 DA/2268/2023 submitted to Central Coast Council on 18 December 2023;
- The Environmental Impact Statement titled '*Environmental Impact Statement Stateline Asphalt Pty Ltd 133 Somersby Falls Road, Somersby NSW 2250*' (Prepared by Benbow Environmental, November 2023) and associated appendices relating to the development; and
- All additional documents supplied to the EPA in relation to the development, including the Response to Submissions and Request for Further Information received from Benbow Environmental dated 7 June 2024.

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. Load limits

Not applicable.

L3. Concentration limits

Not applicable.

L4. Volume and mass limits

Not applicable.

L5. Waste

L5.1 The licensee must not cause, permit or allow any waste to be received at the premises, except the wastes

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expressly referred to in the column titled "Waste" and meeting the definition, if any, in the column titled "Description" in the table below.

Any waste received at the premises must only be used 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.

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

Code	Waste	Description	Activity	Other limits (tonnes)
N/A	General solid waste (non-putrescible)	Reclaimed asphalt products	Resource Recovery & Waste Storage	Upto 50,000 tonnes per annum and upto 850 tonnes stored on site at any one time.
N/A	General solid waste (non-putrescible)	Aggregates, road base or ballast	Resource Recovery & Waste Storage	75,000 tonnes per annum

The maximum amount of waste permitted to be received at the Premises in any reporting period is 125,000 tonnes.

Note "reporting period" is defined in an environment protection licence.

L5.2 Any waste removed offsite must be transported from the premises and disposed of in a lawful manner.

Note: Condition L5.2 is included to ensure that a premises based activity is not used as a waste facility (unless that scheduled activity is permitted by another condition).

L6. Noise limits

L6.1 Noise generated at the premises must not exceed the noise limits at the times and locations in the table below:

Location	Noise Limits in dB(A)
	Day
	L _{Aeq} (15 minute)
126 Somersby Falls Road, Somersby (Lot 1, DP 712505)	46
63 Ghilkes Road, Somersby (Lot 502, DP 712506)	40
29 Ghilkes Road, Somersby (Lot 3, DP 712505)	40
64 Ghilkes Road, Somersby (Lot 501, DP 712506)	40

L6.2 For the purposes of condition L6.1:

- c) Day means the period from 7am to 6pm Monday to Saturday and the period from 8am to 6pm Sunday and public holidays.

L6.3 Standard Meteorological Conditions

- a) The noise limits set out in condition L6.1 apply under the following meteorological conditions:

Assessment Period	Meteorological Conditions
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Day	Stability Categories A, B, C and D with wind speeds up to and including 0.5m/s at 10m above ground level
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- b) For those meteorological conditions not referred to in condition L6.3(a), the noise limits that apply are the noise limits in condition L6.1 plus 5dB.

L6.4 For the purposes of condition L6.3:

- a) The meteorological conditions are to be determined from meteorological data obtained from the meteorological weather station identified as **Bureau of Meteorology AWS at Mangrove Mountain (Station ID 061375)**
- b) Stability category shall be determined using the following method from Fact Sheet D of the *Noise Policy for Industry* (NSW EPA, 2017):
 - i. Use of sigma-theta data (section D1.4).

L6.5 To assess compliance:

- a) with the $L_{Aeq}(15 \text{ minutes})$ or the L_{Amax} noise limits in condition L6.1 and L6.3, the noise measurement equipment must be located:
 - (i) approximately on the property boundary, where any residence is situated 30 metres or less from the property boundary closest to premises; or where applicable,
 - (ii) in an area within 30 metres of a residence façade, but not closer than 3 metres where any residence on the property is situated more than 30 metres from the property boundary closest to the premises; or, where applicable,
 - (iii) in an area within 50 metres of the boundary of a National Park or Nature Reserve,
 - (iv) at any other location identified in condition L6.1
- b) with the $L_{Aeq}(15 \text{ minutes})$ or the L_{Amax} noise limits in condition L6.1 and L6.3, the noise measurement equipment must be located:
 - (i) at the reasonably most affected point at a location where there is no residence at the location; or,
 - (ii) at the reasonably most affected point within an area at a location prescribed by condition L6.5 (a).

- L6.6** A non-compliance of conditions L6.1 and L6.3 will still occur where noise generated from the premises is measured in excess of the noise limit at a point other than the reasonably most affected point at the locations referred to in condition L6.5 (a) or L6.5 (b).

NOTE to L6.5 and L6.6: The reasonably most affected point is a point at a location or within an area at a location experiencing or expected to experience the highest sound pressure level from the premises.

- L6.7** For the purpose of determining the noise generated from the premises, the modifying factor corrections in Table C1 in Fact Sheet C of the *Noise Policy for Industry* (NSW EPA, 2017) may be applied, if appropriate, to the noise measurements by the noise monitoring equipment.

- L6.8** Noise measurements must not be undertaken where rain or wind speed at microphone level will affect the acquisition of valid measurements

- L6.9** All construction work at the premises must be conducted between 7am and 6pm Monday to Friday and between 8am and 1pm Saturdays and at no time on Sundays and public holidays

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Definition

- Noise Policy for Industry - the document entitled "*Noise Policy for Industry*" published by the NSW Environment Protection Authority in October 2017.
- Noise – 'sound pressure levels' for the purposes of conditions L6.1 to L6.8.
 - L_{Aeq} (15 minute) - the value of the A-weighted sound pressure level of a continuous steady sound that, over a 15 minute time interval, has the same mean square sound pressure level as a sound under consideration with a level that varies with time (Australian Standard AS 1055:2018 *Acoustics: description and measurement of environmental noise*).
 - L_{AFmax} – the maximum sound pressure level of an event measured with a sound level meter satisfying Australian Standard AS IEC 61672.1-2013 *Electroacoustics - Sound level meters - Part 1: Specifications* set to 'A' frequency weighting and fast time weighting.

Operating conditions

01. Odour

01.1 The licensee must not cause or permit the emission of offensive odour beyond the boundary of the premises.

01.2 All plant and equipment installed at the premises or used in connection with onsite activities:

- a) Must be maintained in a proper and efficient conditions: and
- b) Must be operated in a proper and efficient manner.

02. Dust

02.1 All operations and activities occurring at the premises must be carried out in a manner that will minimise the generation of air pollutants, including dust, at the premises.

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

02.3 All areas must be maintained, at all times, in a condition that effectively minimises the generation and emission of dust from the premises.

02.4 The truck filling operations must be fully enclosed and fast acting roller doors installed.

02.5 The building must operate under negative pressure.

03. Stormwater/sediment control - Construction Phase

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

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04. Stormwater/sediment control - Operation Phase

04.1 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).

05. Fuel and Chemical Storage

05.1 All liquid chemicals, fuels and oils must be stored in tanks or containers inside suitable bund(s). Bund(s) are to be designed, constructed and maintained in accordance with the relevant Australian Standard for the Storage and Handling of Flammable and Combustible Liquids.

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 Noise

M2.1 Attended noise monitoring must be undertaken in accordance with Condition L6.5 and must:

- a) occur at each location specified in Condition L6.1;
- b) occur annually in a reporting period;
- c) occur during the day period as defined in the *Noise Policy for Industry* for a minimum of 1.5 hours during the day;
- d) occur for three consecutive operating days.

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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

A noise compliance assessment report must be submitted to the EPA within 30 days of the completion of the annual monitoring. The assessment must be prepared by a competent person and include:

- a) an assessment of compliance with noise limits presented in Condition L6.1 and L6.3; and
- b) an outline of any management actions taken within the monitoring period to address any exceedences of the limits contained in Condition L6.1 and L6.3.

Special conditions

E1 Weighbridge Requirements

E1.1 Prior to the acceptance of waste at the premises, the licensee must either install a weighbridge that records the total tonnage of waste being disposed of at the premises, or have an alternative method approved in writing by the EPA for recording the total tonnage of waste received at the premises.

E1.2 All vehicles entering and exiting the premises must have their weights recorded at the weighbridge.

E2 Financial assurance

E2.1 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 an 'authorised deposit-taking institution' under the *Banking Act 1959* of the Commonwealth of Australia and supervised by the Australian Prudential Regulatory Authority (APRA) must be provided to the EPA prior to the issuing of the Environment Protection Licence (amount will be set by the EPA as part of the licence application process).

E3 Environmental Obligations

E3.1 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 materials(s) as soon as practicable after it becomes known to the licensee or to one of the licensee's employees or agents.
- b. In the event(s) that any liquid and non-liquid waste(s) is unlawfully deposited on the premises, such waste(s) must be removed and lawfully disposed of as soon as practicable or in accordance with any direction given by the EPA.
- c. Provide all monitoring data as required by the conditions of this licence or as directed by the EPA.

E3.2 In the event of an earthquake, storm, fire, flood or any other event where it is reasonable to suspect that a pollution incident has occurred, is occurring or is likely to occur, the licensee must:

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

E3.3 After the licensee's premises cease to be used for the purposes to which the licence relates or in the event that the licensee ceases to carry out the activity that is the subject of this licence, that licensee must:

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

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Attachment B – Mandatory Conditions for all EPA licences

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.

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.

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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:

- c. Statement of Compliance; and
- d. Monitoring and Complaints Summary.

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

Period covered by Annual Return

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

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

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

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

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

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

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

Deadline for Annual Return

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

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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
- 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;

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- 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.