

**REGIONAL PLANNING PANEL
HUNTER AND CENTRAL COAST REGION**

Panel Reference	PPSHCC-7
DA Number	8/2019/568/1
LGA	Cessnock City Council
Proposed Development	<p>Increase production of an existing resource recovery facility incorporating:</p> <ul style="list-style-type: none"> • Increase in recycled material throughput from 29,500 tonnes to 90,000 tonnes per annum; • Extension of operating hours to 24 hours per day 6 days per week (Monday to Saturday); • Increase in stockpile height from 3m to 6m; • Increase on site storing capacity from 18,500 to 30,000 tonnes; • Reconfiguration of existing on-site car parking to provide 24 on site spaces; • Widening of driveway access crossing; • Construction of two (2) water tanks for dust suppression.
Street Address	<p>8 Styles Street, Kurri Kurri</p> <p>Lot 5 DP 1251190</p>
Applicant/Owner	Central Waste Plant Pty Ltd
Lodgement date	6 September 2019
Submissions	Three (3) submissions (one in objection and two in support)
Recommendation	Approval subject to conditions
Regional Development Criteria	<ul style="list-style-type: none"> • The development application is for a “regionally significant development” under Clause 7 (particular designated development), of Schedule 7 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i>.
List of all relevant s4.15 matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> • <i>State Environmental Planning Policy (Infrastructure) 2007</i> • <i>State Environmental Planning Policy No. 33 - Hazardous and Offensive Development</i> • <i>State Environmental Planning Policy - 44 Koala Habitat Protection</i> • <i>State Environmental Planning Policy No. 55 - Remediation of Land</i> • <i>Cessnock Local Environmental Plan 2011</i> • Cessnock Development Control Plan 2010 <ul style="list-style-type: none"> ➤ C.1 Parking & Access; ➤ C.3 Contaminated Lands;

	<ul style="list-style-type: none"> ➤ C.4 Land Use Conflict & Buffer Zones; ➤ C.5 Waste Management & Minimisation; ➤ C.8 Crime Prevention Through Environmental Design ➤ C.9 Development on Flood Prone Land; ➤ D.3 Industrial Development
Enclosures	Appendix A – Development plans Appendix B – General Terms of Approval
Report by	Kerry Porter - Senior Planning Assessment Officer
Report date	17 August 2020

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S94EF)?	No
Conditions Have draft conditions been provided to the applicant for comment?	Yes

EXECUTIVE SUMMARY

A Development Application has been submitted on behalf of Central Waste Plant Pty Ltd seeking to increase the production of an existing resource recovery facility at 8 Styles Street, Kurri Kurri. The proposal incorporates the:

- Increase in recycled material throughput from 29,500 tonnes to 90,000 tonnes per annum;
- Extension of operating hours to 24 hours per day 6 days per week (Monday to Saturday);
- Increase in stockpile height from 3m to 6m;
- Increase on site storing capacity from 18,500 to 30,000 tonnes;
- Reconfiguration of existing on-site car parking to provide 24 on site spaces
- Widening of driveway access crossing;
- Construction of two (2) water tanks for dust suppression.

The existing facility is currently licenced under Environment Protection Licence (EPL) No. 13013, granted by the NSW Environment Protection Authority (EPA) on 4 March 2010 in accordance with the requirements of the *Protection of the Environment Operations (POEO) Act 1997*.

The subject application is referred to the Hunter and Central Coast Regional Planning Panel (RPP) for determination as the waste facility is classified as “regionally significant development” under Clause 7 (particular designated development) of Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011*.

The proposal is ‘Designated Development’ being a ‘scheduled activity’ under Schedule 3, Clause 32 (waste management facility or works) of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), for the following reasons:

- The development proposes processing of more than 30,000 tonnes per year of waste;
- The development proposal is located within 100 metres from a natural waterbody;
- The development proposal is located on a floodplain; and
- The development proposal is located within 500 metres of Council’s R2 Low Density Residential zone.

The subject site is known legally as Lot 5 DP 1128108, has an area of 2.1ha and is located within an established industrial estate. A vegetated watercourse (Swamp Creek) runs parallel to the northern boundary of the property. The site has been operating as a resource recovery facility since 2014 (occupation certificate issued on 17 April 2014).

The application was exhibited in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* (the Act) and Cessnock City Council’s adopted

Community Participation Plan (CPP). Nearby affected property owners were notified of the proposal by mail, and in addition, the application was advertised in the Cessnock Advertiser and a sign was displayed on the site. The application was exhibited between 11 December 2019 and 29 January 2020, comprising of 28 days but extended to take into account the prescribed exclusion of Christmas/New Year period. Three submissions were received comprising two letters in support and one in objection.

Internal Council referrals were also undertaken, with comments and recommended conditions considered as part of the assessment. The application is Nominated Integrated Development pursuant to Section 4.46 of the Act, and therefore, a request was sent to the Environment Protection Authority (EPA) seeking General Terms of Approval (GTA's).

The subject application for the increase in production to 90,000 tonnes per annum will supersede the current consent issued for the facility (which restricts production to 29,500 tonnes per annum). As such, the applicant will be required to surrender the original development consent (DC No. 8/2005/1088/1), prior to commencing operations. A condition of consent to this effect has been imposed on the draft determination notice.

The following is a summary of the relevant Section 4.15(1) matters:

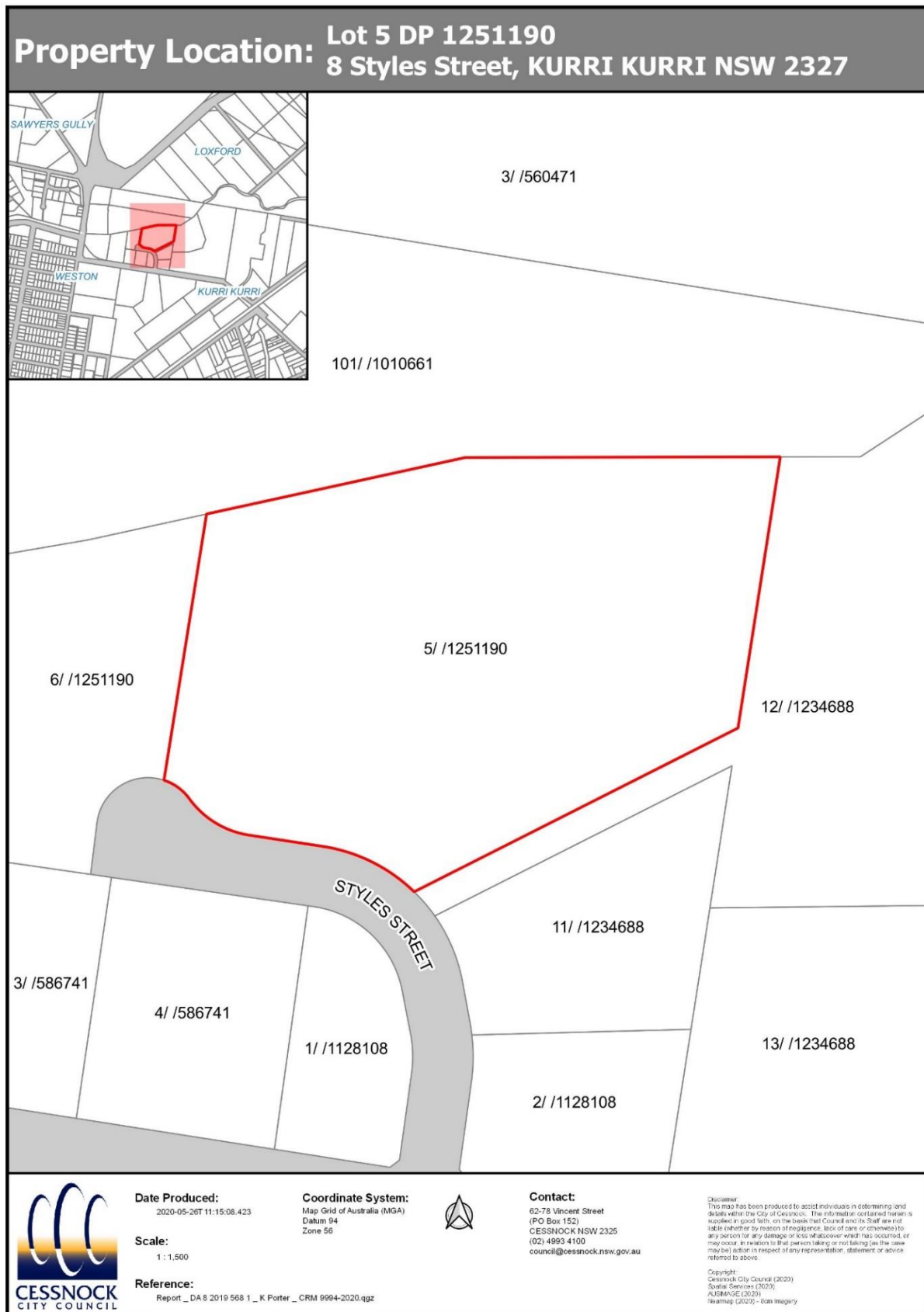
- Environmental Planning Instruments (EPI's):-
 - The application has been assessed and deemed to comply with the relevant and applicable State Environmental Planning Policies (SEPPs), being SEPP (Infrastructure) 2007, SEPP (State and Regional Development) 2011, SEPP 33 (Hazardous and Offensive Development), SEPP 44 (Koala Habitat Protection) and SEPP 55 (Remediation of Land).
 - Pursuant to the *Cessnock Local Environmental Plan 2011* (CLEP), the application is considered to be permissible on land primarily zoned IN3 Heavy Industrial and satisfies the objectives of this zone. A small section of the land is partly zoned RE1 Public Recreation and RU2 Rural Landscape along the northern boundary of the site which is not affected by the proposal.
- The application is consistent with the relevant provisions contained within Cessnock Development Control Plan 2010 (DCP).
- There are no planning agreements, or draft planning agreements, relating to the site or the application.
- The prescribed matters relating to designated development under the Regulation have been considered in the processing and assessment of the application.

- Significant adverse impacts are unlikely as a result of the proposed development, subject to compliance with conditions of consent, GTA's and any subsequent licence issued by the EPA.
- The suitability of the site has been evaluated and it is considered that the site is suitable for the proposed development.
- The submissions from the public do not provide grounds to refuse the application.
- The application is considered to be consistent with the public interest.

RECOMMENDATION

That Development Application No. 8/2019/568/1 proposing the increase in production of an existing resource recovery facility at 8 Styles Street (Lot 5 DP 1251190), Kurri Kurri, be determined pursuant to Section 4.16(1) of the *Environmental Planning and Assessment Act 1979*, by the granting of consent subject to the conditions contained at the end of the report.

LOCATION MAP



AERIAL

Aerial Location: Lot 5 DP 1251190 8 Styles Street, KURRI KURRI NSW 2327



Date Produced:
2020-05-26T11:15:09.658

Scale:
1 : 1,500

Reference:
Report _ DA 8 2019 568 1 _ K Porter _ CRM 9994-2020.qgz

Coordinate System:
Map Grid of Australia (MGA)
Datum 94
Zone 56

nearmap
current : clear : change



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SITE DESCRIPTION AND LOCALITY

The subject site is commonly known as 8 Styles Street (Lot 5 DP 1128108) Kurri Kurri, and is located on the northern side of Styles Street. The site has a frontage of approximately 84 metres and an average depth of 135 metres, providing for an overall site area of 2.12 hectares.

The property currently accommodates a 'resource recovery facility' comprising industrial sheds, weighbridge, office buildings, carpark and an open yard for waste storage and sorting.

Waste materials recycled within the facility include scrap metals (ferrous and non-ferrous), aggregates, clean wood and plasterboard, mixed paper, textiles and hard plastics, as illustrated below:



The site is located within an established heavy industrial estate situated approximately 1.8 kilometres to the north-west of the town centre of Kurri Kurri and 1.5 kilometres to the north-east of the town centre of Weston. The site is approximately 700m of the Loxford exit/entrance to the Hunter Express Way.

Industrial activities are located to the south, west and east of the site with a mixed character ranging from light industrial uses such as commercial storage facilities and landscape supplies, to more general forms of industry including motor vehicle wrecking, earthmoving equipment depots, aluminium recycling, and pre-cast concrete panel forming. There is also an emerging cluster of industrial uses that deal with waste capture and reuse of waste, including the current use of the subject site, along with a green waste transfer station directly to the south, an aluminium recycling centre 300m to the west and a planned battery recycling centre adjoining the site.

A vegetated watercourse (Swamp Creek), runs parallel to the northern boundary of the site and divides the site from vegetated land that has been historically used as a buffer to a former hydro-aluminium plant.

The R2 Low Density Residential zone in Weston is located 300 metres to the west of the site. Rural zoned land (RU2 Rural Landscape) immediately adjoins the site to

the north and this zone runs parallel to the northern boundary of the site along the banks of Swamp Creek.

HISTORY OF THE SUBJECT SITE

Relevant Approvals

1. Development Consent No. 8/2005/1088/1 was issued by Council on 5 March 2008 for an *'industry comprising an inert waste recycling facility incorporating concrete crushing'*. This development has been completed with an occupation certificate issued on 17 April 2014.
2. Development Consent No. 8/2016/539/1 was issued by Council on 31 October 2016 for *'alterations and additions to an existing inert waste recycling facility comprising new fencing and landscaping'*.

This development consent approved the following works:

- Construction of an eight (8) metre high security fence along the front perimeter of the site. The fence comprised sections of 2.4 metre high concrete panels with 5.6 metre sections of corrugated sheeting spanning from the site entrance towards the south eastern corner of the site;
- A chain link security fence to the vehicle entrance;
- An entrance business identification sign measuring 1.5 x 3 metres;
- Landscaping;
- Relocation of two fire hydrants;
- Construction of an internal concrete wall measuring 2.4 metres high to separate the sorting and stockpile areas from the vehicle entrance at the weighbridge;
- Relocation of material storage bays from the north-eastern part of the site to make room for installation of plant and equipment.

A construction certificate for these works was issued on 2 February 2018 and the majority of these works have been completed, however an occupation certificate has yet to be issued.

3. Development Consent No. 8/2018/89/1 was issued by Council on 26 April 2019 for *'shed alterations and extensions to existing inert waste recycling facility incorporating fencing and minor works'*.

This development consent comprised the following work:

- Dismantling and removal of the existing workshop from the site;
- Enlarging the existing material receiving shed;
- Enclosing the processing plant;
- Extending internal hardstand area;
- Constructing solid boundary fencing on the western boundary of the site.

A construction certificate was issued on 4 March 2020 for the removal of the existing workshop from the site and expansion of the existing material receiving shed (these works are currently under construction).

The applicant is currently preparing documentation to lodge a separate construction certificate to enclose the processing plant and construct fencing along the western boundary of the site. These works have not yet commenced.



- Above image - latest Nearmaps Aerial taken 15 June 2020 (showing shed extension construction underway in accordance with Development Consent No. 8/2018/892/1).

Subject Development Application

Council held pre-lodgement discussions with the applicant on 5 April 2019 regarding the proposal to increase production of the existing resource recovery facility located on the land.

The history of the subject development application, along with key preceding consultation, is summarised in the following table:

Date	Action
10 January 2018	Department of Planning and Environment issues Secretary's Environmental Assessment Requirements (SEARs) No. 1193.
5 April 2019	Pre DA Meeting held with applicant and Council staff.

6 September 2019	The development application is lodged with Council.
9 September 2019	The application is registered with the RPP Secretariat.
9 September 2019	The application is referred to relevant authorities.
27 September 2019	Additional information is requested from the applicant in relation to the permissibility of the turning bay for Rural Fire Service (RFS) trucks within the riparian zone of the adjoining creek (zoned RE1 Recreation), and clarification regarding on-site parking numbers.
4 October 2019	Part of the information requested by Council is submitted, inclusive of advice that amended plans illustrating the removal of the proposed turning bay within the riparian zone, will follow.
8 October 2019	NSW RFS referral received raising no objection subject to conditions.
18 October 2019	The EPA advises that additional information is required and this information is requested of the applicant.
15 November 2019	Amended plans received by applicant removing the RFS truck turning bay.
29 November 2019	Transport for NSW (TfNSW) requests additional information and this information is requested of the applicant.
11 December 2019 – 29 January 2020	The application is placed on public exhibition.
30 January 2020	Response received from TfNSW raising no objection subject to conditions.
20 February 2020	Applicant requested to amend ecology report to take into account amended plans (that remove the RFS truck turning bay and associated vegetation removal within the riparian zone).
18 March 2020	Amended ecology report received and referred to Council's Ecologist. Additional information received addressing EPA's requirements and this information is referred to EPA.
14 April 2020	Copy of public submissions referred to concurrence authorities (EPA and NRAR).
16 April 2020	Referral received from Office of Environment and Heritage (OEH) raising no objection with regards to aboriginal cultural heritage.

30 April 2020	EPA issues GTA's.
13 May 2020	Council's Ecologist referral completed raising no objection and no conditions due to nil vegetation being removed.
19 May 2020	NRAR referral received confirming no works proposed within 40 metres of the creek and as such, no requirement for a Controlled Activity Approval.
21 May 2020	Council's Environmental Health Officer referral received raising no objections subject to conditions and compliance with EPA's GTA's.
26 May 2020	Referral received from Council's Community Planner raising no objection.
28 May 2020	Applicant requests EPA to review their GTA's.
19 June 2020	Applicant agrees with EPA's GTA's issued on 30 April 2020.
22 July 2020	Briefing session held with RPP.
5 August 2020	Referral received from Council's Contributions Planner regarding haulage levies.
17 August 2020	Assessment report finalised and referred to the RPP Secretariat.

DETAILS OF THE PROPOSED DEVELOPMENT

Development Application No. 8/2019/568/1 seeks approval for the increase in production of the existing resource recovery facility located on the site.

The existing resource recovery facility accepts inert building materials on site, mainly consisting of concrete, bricks, metals and timber that are sorted and crushed to specifications to enable the material to be sold as useable product for various construction purposes.

Materials recovered from the facility include the following:

- Inert material (stone, brick, concrete)
- Non ferrous metals (aluminium, copper and brass)
- Steel (ferrous metals)
- Recovered Fines (0-10mm soil/sand material)
- Untreated Timber (CCA free)
- Treated Timber
- Residual Waste for further processing to produce solid recovered fuel (SRF)
- Paper and Cardboard

The operating hours of the facility are currently restricted to:

- Monday to Friday: 7:00am to 5:00pm
- Saturday: 7:00am to 2:00pm
- Sunday: not operational

An Environment Protection Licence No. 13013 (EPL) granted by the NSW Environment Protection Authority (EPA) on 4 March 2010 also applies to the existing development with licenced throughput of 35,000 tonnes per annum.

The current application proposes to intensify existing operations as follows:

- Increase recycled material throughput from 29,500 tonnes to 90,000 tonnes per annum;
- Extension of operating hours to 24 hours per day 6 days per week (Monday to Saturday);
- Increase stockpile heights from 3m to 6m;
- Increase on site storing capacity from 18,500 to 30,000 tonnes;
- Reconfiguration of existing on-site car parking to provide for 24 on site spaces;
- Widen driveway access crossing from 9 metres to 16.8 metres;
- Two (2) water tanks for dust suppression

The proposal to extend operating hours 24 hours a day (6 days a week) is to enable the owners to achieve a target of 10 hours production per day, with scope for longer hours in the event of delays and breakdowns, as well as the flexibility to respond to periods of peak demand. Generally the majority of truck movements will finish by 7pm with a declining number of the larger articulated vehicles finishing by 10pm.

The sorting and processing of material will generally be restricted to daylight hours and will only be undertaken during the evening and early morning hours in the event of machinery breakdowns, delays and periods of peak demand.

SECTION 4.10 DESIGNATED DEVELOPMENT

Schedule 3 (Part 1– Clause 32) EPA Regulations 2000

Designated Development is development that is considered high-impact or is located in or near an environmentally sensitive area. Pursuant to Schedule 3, Part 1, Clause 32 of the *Environmental Planning & Assessment Regulation 2000*, designated development includes:

32 Waste management facilities or works

(1) Waste management facilities or works that store, treat, purify or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and--

(a) *that dispose (by landfilling, incinerating, storing, placing or other means) of solid or liquid waste--*

- i) that includes any substance classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste, or*
- (ii) that comprises more than 100,000 tonnes of "clean fill" (such as soil, sand, gravel, bricks or other excavated or hard material) in a manner that, in the opinion of the consent authority, is likely to cause significant impacts on drainage or flooding, or*
- (iii) that comprises more than 1,000 tonnes per year of sludge or effluent, or*
- (iv) that comprises more than 200 tonnes per year of other waste material, or*

(b) *that sort, consolidate or temporarily store waste at transfer stations or materials recycling facilities for transfer to another site for final disposal, permanent storage, reprocessing, recycling, use or reuse and--*

- (i) that handle substances classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste, or*
- (ii) that have an intended handling capacity of more than 10,000 tonnes per year of waste containing food or livestock, agricultural or food processing industries waste or similar substances, or*
- (iii) that have an intended handling capacity of more than 30,000 tonnes per year of waste such as glass, plastic, paper, wood, metal, rubber or building demolition material, or*

(c) *that purify, recover, reprocess or process more than 5,000 tonnes per year of solid or liquid organic materials, or*

(d) *that are located--*

- (i) in or within 100 metres of a natural waterbody, wetland, coastal dune field or environmentally sensitive area, or*
- (ii) in an area of high watertable, highly permeable soils, acid sulphate, sodic or saline soils, or*
- (iii) within a drinking water catchment, or*
- (iv) within a catchment of an estuary where the entrance to the sea is intermittently open, or*
- (v) on a floodplain, or*
- (vi) within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic.*

(2) This clause does not apply to--

- (a) development comprising or involving any use of sludge or effluent if--
 - (i) the dominant purpose is not waste disposal, and
 - (ii) the development is carried out in a location other than one listed in subclause (1)(d), above, or
- (a1) artificial waterbodies located on relevant irrigation land, or
- (b) development comprising or involving waste management facilities or works specifically referred to elsewhere in this Schedule.

The proposal is classified as 'designated development' due to the following:

- The proposal is considered to be a 'scheduled activity' as it processes more than 30,000 tonnes per year of waste such as glass, plastic, paper, wood, metal, rubber or building demolition material;
- The proposed development is located within 100 metres from a natural waterbody;
- The proposed development is located on a floodplain; and
- The subject site is situated within 500 metres of Council's R2 Low Density Residential zone.

In accordance with Section 4.12(8) of the Act and Schedule 2 of the Regulation, an Environmental Impact Statement (EIS) prepared in accordance with the SEARs, accompanied the subject application. The submitted EIS is consistent with the SEARs and the provisions under Schedule 2 of the Regulation.

Schedule 3 (Part 2– Clause 35 and 36) EPA Regulations 2000 - Are alterations or additions designated development?

Clause 35 of the Regulations state the following:

35 Is there a significant increase in the environmental impacts of the total development?

Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.

Clause 36 of the Regulations state the following:

36 Factors to be taken into consideration

In forming its opinion as to whether or not development is designated development, a consent authority is to consider--

(a) the impact of the existing development having regard to factors including-

(i) previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice, and

(ii) rehabilitation or restoration of any disturbed land, and

(iii) the number and nature of all past changes and their cumulative effects, and

(b) the likely impact of the proposed alterations or additions having regard to factors including—

(i) the scale, character or nature of the proposal in relation to the development, and

(ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality, and

(iii) the degree to which the potential environmental impacts can be predicted with adequate certainty, and

(iv) the capacity of the receiving environment to accommodate changes in environmental impacts, and

(c) any proposals—

(i) to mitigate the environmental impacts and manage any residual risk, and

(ii) to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities

Comment

The proposal is to intensify existing operations of the established resource recovery facility by significantly increasing recycled material throughput from 29,500 tonnes to 90,000 tonnes per annum. Further, operating hours will increase to 24 hours per day 6 days per week (Monday to Saturday). This intensification is significant and the factors of consideration in determining whether the proposal triggers the designated development provisions have been taken into account. Specifically, the proposal to expand operations will:

- Significantly increase the scale of the development;
- Potentially further impact on the environment with regards to air and water quality without mitigation measures in place;

- Potentially further impact on the neighbourhood amenity with regards to noise, light spill and traffic generation without mitigation measures in place.

Having regard for the above, the proposal triggers the designated development provisions and the application has been assessed accordingly.

SECTION 4.15(1) ASSESSMENT

In determining a Development Application, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the Development Application:

(a)(i) *The Provisions of any Environmental Planning Instrument*

The following EPI's are applicable to the assessment of the application:

- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy No. 33 – Hazardous and Offensive Development*
- *State Environmental Planning Policy No. 44 - Koala Habitat Protection*
- *State Environmental Planning Policy No. 55 – Remediation of Land*

State Environmental Planning Policy (Infrastructure) 2007

Section 121 of the *State Environmental Planning Policy (SEPP) Infrastructure 2007* states that a 'waste or resource management facility', is permissible with consent in the IN3 – Heavy Industrial Zone, as it is a prescribed zone.

Pursuant to Clause 104(2)(a) of *SEPP Infrastructure 2007*, a 'waste or resource management facility' of any size or capacity is classified under Schedule 3 as traffic generating development.

Before determining a development application for development to which Clause 104 applies, the consent authority must give written notice of the application to Transport for NSW (TfNSW) and take into consideration any response received within 21 days.

TfNSW responded in correspondence dated 30 January 2020, raising no objection to the proposed development as it was considered there will be no significant impact on the nearby classified (state) road network.

State Environmental Planning Policy (State and Regional Development) 2011

The purpose of *SEPP (State and Regional Development) 2011*, is to identify development that is state significant, state significant infrastructure, critical state significant infrastructure and regionally significant development.

In accordance with Clause 7, Schedule 7 of *SEPP (State and Regional Development) 2011*, the subject development is classified as "regionally significant

development” as the proposal comprises a waste management facility which is designated development.

State Environmental Planning Policy 44 - Koala Habitat Protection

The subject application was lodged prior to the adoption of *SEPP (Koala Habitat Protection) 2019* being on 1 March 2020. In this case, the savings and transitional provisions contained in clause 15 apply, which state:

“A development application made, but not finally determined, before the commencement of this Policy in relation to land to which this Policy applies must be determined as if this Policy had not commenced.”

The application was supported by ecological information including details of tree species for vegetation that is located on the subject land but that is not within the development area. Council’s Ecologist has confirmed that, whilst one species of koala feed tree exists within the riparian zone along Swamp Creek, as the proposal does not involve any construction works or removal of vegetation outside of the existing developed area, koala habitat will be not be impacted.

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

State Environmental Planning Policy (SEPP) No. 33 – Hazardous and Offensive Development applies to any development comprising a potentially hazardous industry. The consent authority is required to consider whether a waste or resource recovery facility is development that is a potentially hazardous industry or a potentially offensive industry.

Potentially hazardous or offensive development is defined by *SEPP 33* as development which poses a significant risk to, or which would have a significant adverse impact on, human health, life, property or the biophysical environment, if it were to operate without employing any control measures. This includes developments for the handling, storing or processing of hazardous materials.

Offensive Industry

The existing resource recovery facility operates under an existing EPL 13013. However, consideration of the Noise Impact Assessment and the Air Quality Impact Assessment for the proposal in the context of *SEPP 33* guidelines determines that the proposal would not exceed the amenity criteria and is not considered “potentially offensive”.

Hazardous Materials

Hazardous materials are defined within the Department of Planning Guidelines for Hazard Industry Planning (2011) as substances falling within the classification of the Australian Code for Transportation of Dangerous Goods by Road and Rail (Dangerous Goods Code). Based on this definition, the hazardous materials stored at the facility, are diesel fuel and lubricating oils and greases.

The facility operates under existing EPL 13013 which includes diesel storage and transportation arrangements. The proposed increase in throughput is anticipated to increase diesel usage.

Notwithstanding the above, as part of the previous development consent (Reference No. 8/2018/892/1) for the expansion of the materials receiving shed and plant enclosure, the on-site diesel storage and mechanic workshops (including oils storage) have been removed from the site and arrangements made to outsource these mechanical maintenance and repairs and refuelling. On the basis that the applicant implements the requirements of Development Consent No. 8/2018/892/1, and on the condition that an occupation certificate is issued under that consent, there will be assurance that no dangerous goods will be stored on site. Therefore, a Preliminary Hazard Assessment (PHA) is not required.

State Environmental Planning Policy No. 55 – Remediation of Land

The intent of this policy is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clause 7(1) of *State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land*, is relevant to the assessment of this Development Application, which requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The subject site is developed and currently operating as a resource recovery facility within an established heavy industrial estate. The issue of site contamination was addressed in the original development application and the only physical works proposed in the current application is the re-configuration of the existing on-site parking area. Having regard for the above, further investigations in respect of contamination are not required.

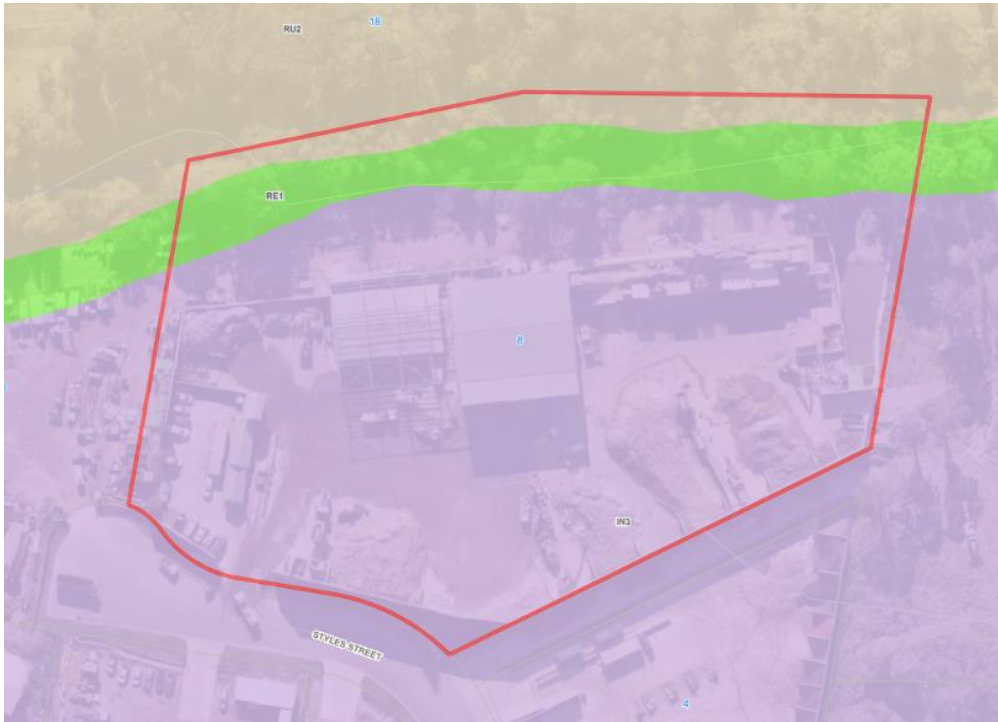
Cessnock Local Environmental Plan (CLEP) 2011

Permissibility

The developed area of the site is zoned IN3 Heavy Industrial under the provisions of the *Cessnock Local Environmental Plan (CLEP) 2011*. A small portion of the site running along the northern boundary is zoned RE1 Public Recreation (reflecting the creek line known as Swamp Creek).

A longitudinal area of the site running along the northern bank of the creek is zoned RU2 Rural Landscape.

The zoning of the site is illustrated below:



The proposed development is defined as a ‘resource recovery facility’ under the Cessnock Local Environmental Plan which provides the following:

resource recovery facility means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

A “resource recovery facility” fits under the group term “waste or resource management facility”:

waste or resource management facility means any of the following—

- (a) a resource recovery facility,
- (b) a waste disposal facility,
- (c) a waste or resource transfer station,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

The development is a permitted use in the IN3 Heavy Industrial zone subject to development consent.

Objectives

The existing development is confined to the IN3 Heavy Industrial zone and the objectives of this zone are addressed as follows:

- To provide suitable areas for those industries that need to be separated from other land uses.

Comment: The IN3 zone is intended for those industries that present a risk to the environment and people. The site is separated from other land uses that would be deemed sensitive to the operation of heavy industries located in this zone. The subject site is considered suitable for the development and on this basis, the existing resource recovery facility was approved under Development Consent No. 8/2005/1088/1, in 2008.

- *To encourage employment opportunities*

Comment: The proposal will provide for an increase in employment opportunities, providing direct employment for a total of fifty-five (55) persons.

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

Comment: The facility is suitably located within the heavy industrial area so as to minimise environmental impacts on surrounding industries and sensitive land uses.

- *To support and protect industrial land for industrial uses*

Comment: The subject site is developed and currently operating as a resource recovery facility and the proposal to increase production satisfies the underlying objective of the zone to encourage and support industrial land uses.

Relevant Clauses

The Development Application was assessed against the following relevant clauses of the *CLEP 2011*:

- Clause 5.9 – Preservation of trees or vegetation

The subject application does not seek the removal of any vegetation.

- Clause 7.3 – Flooding

Clause 7.3 of the *CLEP 2011* states the following:

(1) The objectives of this clause are as follows—

- (a) to minimise the flood risk to life and property associated with the use of land,*
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) to avoid significant adverse impacts on flood behaviour and the environment.*

(2) This clause applies to land at or below the flood planning level.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

- (a) is compatible with the flood hazard of the land, and*
- (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

(4) A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government, unless it is otherwise defined in this clause.

(5) In this clause, flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

Comment

The subject site is affected by the 1 in 100 year AEP flood event. The northern boundary of the site is within a floodway associated with the creek.

The only physical work proposed under the current development application is the reconfiguration of the car park. These works will not result in any filling of the land or change in site levels.

The proposal will not impact on flood behaviour in the locality and as such, the provisions of clause 7.3 of the *CLEP 2011* are considered satisfied.

(a)(ii) The Provisions of any Draft Environmental Planning Instrument

There are no draft Environmental Planning Instruments applicable to the development.

(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan 2010

The following chapters of the DCP apply to the proposal:

- C.1 Parking & Access;
- C.3 Contaminated Lands;
- C.4 Land Use Conflict & Buffer Zones;
- C.5 Waste Management & Minimisation;
- C.8 Crime Prevention Through Environmental Design

- C.9 Development on Flood Prone Land;
- D.3 Industrial Development

C.1 Parking & Access

Parking

This chapter seeks to guide developers on Council's requirements for off-street parking with the aim of ensuring development satisfies the expected parking demand, not only through quantity of parking but also quality of parking.

Parking rates for "waste or resource management facilities" are not specified in this chapter of the DCP.

The original consent for the existing operation required the provision of 18 on-site parking spaces (Condition 15 of Development Consent No. 8/2005/1088/1). The current application proposes to increase the production capacity of the plant which will increase employee numbers to a maximum of 55. However, at any one time, there will be no more than 28 employees working on the site (reflecting a two (2) shift cycle).

As a guide, parking requirements for industrial development under the DCP (for staff) is one (1) space per two (2) employees. This would equate to the requirement for 14 spaces.

The application proposes to upgrade and re-configure the existing on-site parking area to provide for a total of twenty-four (24) spaces (including 1 disabled space). This exceeds the minimum requirement of fourteen (14) spaces. On this basis, it is considered that the provisions of the DCP have been satisfied.

Access

The application proposes to widen the existing nine (9) metre wide concrete access crossing to 16.8 metres at the kerb to improve vehicular access into and out of the site. These works will require a separate approval under Section 138 of the *Roads Act 1993*. Notwithstanding, the increased width and concept design is considered satisfactory and in accordance with Council's Engineering Requirements for Development.

C.3 Contaminated Lands

As this chapter of Council's DCP has been prepared in accordance with the requirements of SEPP 55 – Remediation of Land, the proposed development is consistent with the requirements of this chapter as previously outlined.

C.4 Land Use Conflict & Buffer Zones

This chapter of Council's DCP details separation distances or buffer zones for incompatible land uses. The distances are provided as a guide and prescribe minimum recommendations for physical separation of incompatible uses.

There are no specific requirements for a “resource recovery facility” within this chapter of the DCP. The most relevant similar use detailed in the DCP is for “waste management facilities” which require a minimum separation distance of 1000 metres from dwellings.

The nearest residential premises to the proposed development are approximately 230 metres to the north-west and 370 metres to the west. Appendix B to this report provides a locality plan of nearby residential receptors taken from the submitted noise report.

The DCP states that buffer distances are aimed at reducing conflict. For waste management facilities (under the DCP), the stated conflicts are ‘odour, wind-blown refuse, noise, traffic, dust and significant potential for contamination of ground and surface waters’. In this regard, the development does not involve the processing or disposal of putrescible wastes and as such, odour issues can be eliminated from the list of impacts.

The EPA’s GTA’s do not contain requirements for odour control because the proposed development is not categorised as a development with potentially offensive odorous. Odour and ground water conflicts (from the likelihood of leachates) mentioned in the DCP are aimed at putrescible landfills.

It is noted that the nearest dwellings to the development are significantly buffered by Swamp Creek which comprises a substantially vegetated riparian zone and in this regard, the impacts of the development on these dwellings is significantly reduced (in terms of visual impacts, noise and dust generation).

Noise impacts, dust generation, surface water and air pollution have been assessed in detail by the EPA. GTA’s have been issued by the EPA and the applicant will be required to lodge an application with the EPA to amend their current EPL, reflecting the requirements of the GTA’s.

Subject to compliance with the GTA’s and EPL issued by EPA, the impacts of the development will be appropriately mitigated and minimise any land use conflict with surrounding non-industrial land uses. It is therefore considered that the proposed development is consistent with the provisions of this chapter of Council’s DCP.

C.5 Waste Management & Minimisation

As there will be no construction works undertaken with regards to the proposal (apart from the reconfiguration and marking of the existing car park), there will be no construction waste generated.

Waste management, in terms of existing site operations, is currently being managed under previous approvals and in accordance with EPA requirements. As such, no further waste management plans are required to be provided.

It is noted that the current average resource recovery rate of the facility sits at approximately 83%.

C.8 Crime Prevention through Environmental Design

The applicant has lodged a detailed assessment of Chapter C.8 of the DCP demonstrating compliance with the requirements for surveillance, access control, territorial reinforcement and space management. As the current application does not propose the construction of any new buildings, nor alter the site layout of the development, the key areas of consideration with regards to crime prevention relate to operational aspects of the development, security and lighting.

The proposal to operate 24 hours a day (6 days a week) will ensure there will always be staff on site undertaking constant surveillance of the premises. The facility is closed on Sundays and the site is secured with solid fencing and gates, with security lighting.

Lighting has been designed and orientated inwards focusing on the central working yard, thereby ensuring glare does not impact on the amenity of nearby sensitive land uses, yet providing adequate internal lighting to improve surveillance for staff.

Lighting of the carpark and the entrance/exit driveway to the site exists and will remain unchanged as a result of the proposal to intensify operations on site.

C.9 Development on Flood Prone Land

This chapter relates to flood prone land and provides requirements for development located in flood affected areas.

Councils mapping system indicates that the northern boundary of the site is located within a floodway associated with the creek. The majority of the site is located within a flood storage area and the original development consent issued for the resource recovery facility considered the impacts of flooding.

The current proposal does not involve further development of the land (in terms of buildings or structures). The only works proposed involve the minor re-configuration of the car park and this does not involve earthworks.

Having regard for the above, no further consideration or assessment is required with regards to flooding, and it is considered that the requirements of Chapter C.9 of Council's DCP 2010 are satisfied.

D.3 Industrial Development

This chapter of the DCP primarily refers to new industrial development and details requirements for setbacks, building design, site layout, parking, landscaping and vehicular movements.

The only physical works being undertaken on the site relate to the minor reconfiguration of the existing on-site parking area.

Aims and Objectives

The overall aims and objectives of the DCP are as follows:

- a) To encourage industrial development without creating detrimental environmental impacts or adversely affecting existing services and infrastructure.
- b) To ensure that adequate environmental safeguards are implemented by industry through careful site planning.

The application to increase production of through put materials has been carefully assessed, specifically with regards to the environmental impacts of the development. The EPA has assessed the impacts of the development with regards to water, air and noise pollution, and consider that the proposal will not detrimentally impact on the environmental qualities of the locality subject to strict compliance with the conditions contained within the GTA's and EPL.

The impact of the development has been assessed on local infrastructure (specifically the local road network), and such impacts are considered to be satisfactory.

A contribution will be required under Council's Section 7.11 Contributions Plan towards the maintenance of local roads as a result of increased truck movements generated by the development.

Landscaping

Clause 3.2.1 provides guidelines for landscaping. In this regard, the only physical works proposed are confined to the existing car park located on the site. Control c) under this clause of the DCP, states the following:

c) large vehicular parking areas may be required to be landscaped to provide shade and to soften the visual impact of parking facilities.

The location of the car parking area will remain unchanged and is situated at the front of the site in the south west corner of the property. This parking area will be slightly reconfigured and enlarged to provide for an additional 6 parking spaces. A landscaped strip exists along the western boundary of the carpark and the front boundary security wall screens the parking area from the street.

As such, it is considered that the reconfigured car park satisfies the landscaping and visual impact requirements of the DCP.

Vehicular Parking and Drainage

In accordance with clause 3.2.2 (vehicular parking), compliance is required with Council's DCP (Chapter C.1 – Parking and Access). This has been previously addressed as being compliant. There will be a requirement to lodge a drainage plan for the car park to the satisfaction of Council prior to commencement of the use.

Vehicular Movements and Access

Vehicular manoeuvring into and out of the site (and internally), will remain unchanged with regard to turning paths. The driveway access crossing onto Styles Street will be widened from 9 metres to 16.8 metres. This increase will improve manoeuvring for larger vehicles entering and leaving the site, and this has been assessed as being satisfactory by Council's Development Engineers.

Outside Storage

Clause 3.2.6 of the DCP requires the external storage of materials to be located behind the building and/or screened from public view by means of fencing.

Material stockpiles within the site will be increased in height from 3 metres to 6 metres to accommodate the increase in production and subsequent storage capacity on site. These stockpiles are currently screened by the front boundary fence (being a solid screen wall eight (8) metres in height). As such, the material stock piles will not be visible to the public from the street.

In summary, the proposal satisfies the aims and objectives of Council's DCP for industrial development.

(a)(iia) Any Planning Agreement or any draft Planning Agreement

No such agreement exists between the owner and Council, and none has been proposed as part of this application.

(a)(iv) The Regulations

An EIS was prepared in accordance with the requirements prescribed in Schedule 2 of the Regulations.

It is considered that the EIS has satisfactorily addressed the SEARs, identifies all the key environmental issues associated with the proposal, and provides appropriate recommendations for ongoing mitigation.

The application does not propose changes to existing buildings or the use of existing buildings. Accordingly, the fire safety requirements contained in sections 93 and 94 do not apply to this assessment.

(b) The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality

The likely impacts of the development have been considered and addressed in this report.

Additional comments are provided for the key likely impacts, below:

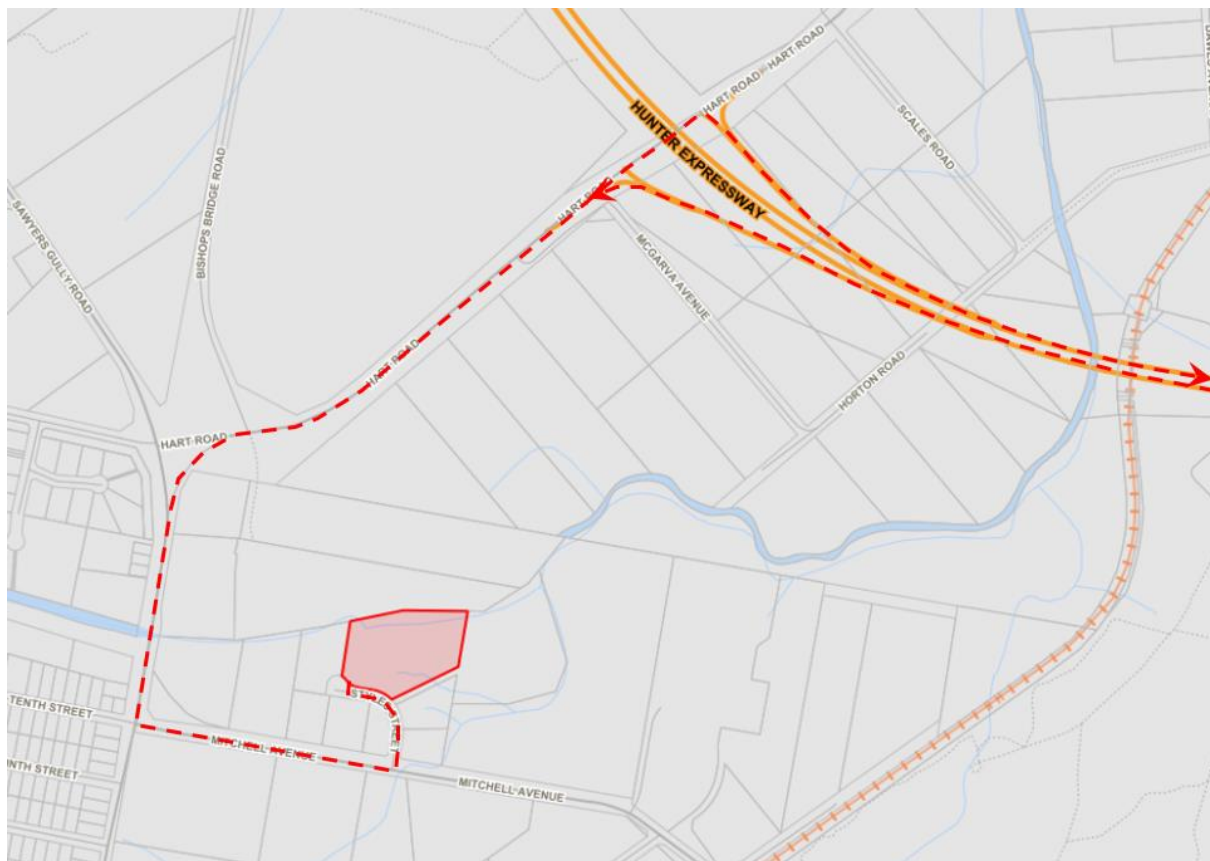
Traffic

A Traffic Impact Assessment (TIA) was submitted in support of the application. The TIA was prepared in accordance with the requirements of the SEARs.

The additional traffic generation is anticipated to be 268 truck movements per day representing a 69% increase of existing conditions over the 24hr period.

The assessment identifies the road transport routes and proportion of movements the increased throughput would generate.

The primary transport route for the existing and additional daily truck movements is via Styles Street and Mitchell Avenue (west of Styles Street) to Government Road and then Hart Road to the Hunter Expressway, north of Kurri Kurri. This is illustrated in the map below. The submitted traffic impact assessment reports that 75% of truck movements will use this route.



The remaining 25% of truck movements will be via the two (2) major roads through Kurri Kurri via Mitchell Avenue and Northcote Street.

The submitted TIA has demonstrated that the increase in traffic generated by the proposal can be appropriately absorbed in the existing road network, and that the level of service relating to relevant intersections, is maintained. The TIA outlines that, given the condition of the existing industrial road network, no road upgrades are considered necessary.

The application and associated TIA were assessed by Council, and in addition, the documents were referred to TfNSW who have assessed the proposal as being satisfactory, subject to Council imposing standard conditions of consent.

Pollution

Air and Water

An Air and Water Quality Impact Assessment was submitted in support of the application, which has been assessed by the EPA.

The existing waste recycling facility holds an EPL and this licence requires an amendment to incorporate the increase in throughput materials up to 90,000 tonnes per year.

The EPA has reviewed the application and associated environmental reports and has determined that the proposed expansion of the operation can be supported subject to compliance with the GTA's and EPL requirements to ensure air and water quality impacts are minimised.

Noise

A Noise Impact Assessment Report was submitted in support of the application, which was assessed by both Council and the EPA.

The expected additional noise generated by the development will be from:

- The use of equipment, particularly the concrete crushing equipment;
- The use of heavy vehicles.

Appendix B of this report includes an aerial plan of the locality and the noise monitoring locations relative to the site. A total of forty-one (41) monitoring locations were recorded, of which sixteen (16) of these were residential receptors, fourteen (14) industrial receptors and the remaining eleven (11) a mixture of school, hospital, recreation and place of public worship receptors.

The nearest most sensitive residential receptors are located to the north-west (approximately 230 metres away) and to the west (approximately 370 metres away).

Results of the noise modelling for the facility demonstrate that noise levels are predicted to satisfy the relevant noise trigger levels at all assessment locations under calm meteorological conditions.

Noise limits and procedures for noise monitoring have been included in the EPA's GTA's and will also be re-iterated in the amended EPL that applies to the operation.

It is noted that the noise report references the construction of a 4 metre high solid fence along the western boundary of the site approved under a previous approval (Development Consent No. 8/2018/892/1), issued on 26 April 2019. At the time of preparing this report, this fence had not been constructed. However the applicant

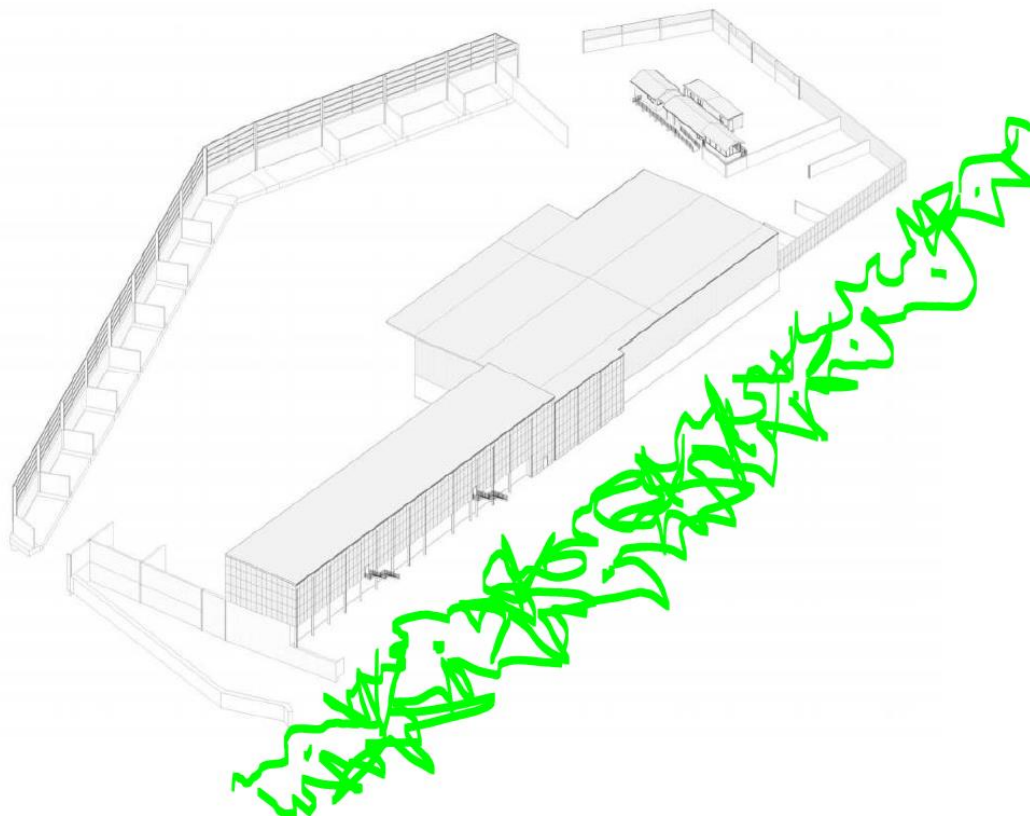
has since advised that the issuing of a construction certificate for this fence, is imminent. A condition of consent has been imposed on the draft notice of determination prescribing that, prior to the commencement of use, the wall be constructed to further mitigate noise impacts associated with the development.

Light Spill

The subject site is located within an established heavy industrial area which includes other premises that operate 24 hours per day. The nearest residential premises to the development are located approximately 230 metres to the north-west and 330 metres to the west. These residential locations are screened by other industrial developments to the west and to the north-west by mature riparian and rural vegetation.

Existing lighting of the premises will not be altered as a result of the proposed intensification of works as security lighting remains on during evening hours. Lighting is designed to face inwards toward the centre of the working yard and is baffled by the existing built form.

With regards to the impact of lighting on fauna within the adjoining vegetated creek (Swamp Creek), the facility is designed such that the built structures of the development are located along the northern boundary of the site (to a height of in excess of 4 metres in certain locations). These structures act as a physical buffer, shielding light spill from the development on this vegetated corridor, as illustrated in the diagram below:



(c) The suitability of the site

As the site is currently operating under an existing approval for the purpose of a resource recovery facility and given the zoning of the land for heavy industrial purposes, it is considered that the site is suitable for the proposed intensification of operations.

Subject to mitigation measures to control environmental impacts as required by the EPA and conditions of development consent, the site is considered suitable for the development proposed.

(d) Any submissions made in accordance with this Act or the Regulations

The application was exhibited in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the adopted Community Participation Plan. Nearby affected property owners were notified of the proposal by mail, the application was advertised in the Cessnock Advertiser and a sign was displayed on the site. The application was exhibited for a minimum of 28 days from 11 December 2019 to 29 January 2020, and extended to take into account the prescribed exclusion of the Christmas/New Year period.

In response to the exhibition period, three submissions were received, two in support of the application and one objecting on three grounds. The issues raised in the objection, along with Council's comments/responses to each of the issues raised, are detailed in the table below.

Issue	Comment
The proposed extension of operating hours will impact on the amenity of the surrounding residential neighbourhood (due to noise) particularly during the evening and early hours of the morning.	The application was accompanied by a noise impact assessment report which has been reviewed by both Council and the EPA. The report has been assessed as being satisfactory and the EPL to be issued by EPA will require the submission of an annual noise compliance report including regular monitoring to ensure specified noise limits are being complied with.
The intensification of production will increase traffic on local roads and will increase travel times for other motorists using these roads.	<p>The application was accompanied by a Traffic Impact Assessment which has been assessed by both Council and TfNSW.</p> <p>The assessment has demonstrated that the local road network will adequately accommodate the additional traffic generated by the development, and the level of service on intersections will be maintained.</p>
Trucks will not use the identified route on the lodged Traffic Management	The submitted Traffic Impact Assessment identifies the primary transport route (for approximately 75% of truck movements to and from the site) as being via the Hunter

Plan and will instead detour along residential streets and adversely impact on the amenity of the residential neighbourhood.	<p>Expressway. This route is the most logical given the close proximity of the site to the Hunter Expressway via Mitchell Avenue, Government and Hart Road.</p> <p>Both Council and TfNSW have assessed the Traffic Impact Assessment as being satisfactory with regards to the identified transport route. The majority of trucks accessing the site from the east and south through Kurri Kurri will be via major roads (Mitchell Avenue and Northcote Street) and not through residential back streets.</p>
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(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, Environmental Planning Instruments and Council Policies. Based on the above assessment, the proposed development is consistent with the public interest.

OTHER PLANNING MATTERS

Environmental Planning and Assessment Act 1979 – Section 1.7 of the Act - Biodiversity Considerations

Having regard for Section 1.7 of the *Environmental Planning and Assessment Act 1979*, which requires consideration of Part 7 of the *Biodiversity Conservation Act 2016*, a flora and fauna assessment has been submitted with the application and assessed by Council's Ecologist. This assessment has determined that no vegetation will be removed from the site to facilitate the increase in production of the facility. As such, the proposal is not considered to be a threatening process.

Environmental Planning and Assessment Act 1979 – Section 4.14 (Certain Bush Fire Prone Land)

As part of the subject land is mapped as bushfire prone, the application was referred to the NSW Rural Fire Service who have responded with comments and conditions in correspondence dated 8 October 2019. No objection was raised to the proposal. The requirements of Section 4.14 of the Act may therefore be satisfactorily addressed through the recommended conditions.

Environmental Planning and Assessment Act 1979 – Section 4.16(9) – (Referral of Submissions to Planning Secretary)

Section 4.16(9) of the EP & A Act 1979 states the following:

Restrictions on determination of development applications for designated development - A consent authority must not determine a development application for designated development—

(a) until after the submission period (within the meaning of Schedule 1) has expired, or

(b) if a submission is made with respect to the application within the submission period, until after 21 days following the date on which a copy of the submission is forwarded to the Planning Secretary have expired.

In accordance with the above provision, the submissions received during the public exhibition period were forwarded to the Planning Secretary of the Department Planning, Industry and Environment (DPIE). In response, DPIE confirmed (in writing), that no objection was raised to determination of the application, thereby satisfying Section 4.16(9) of the EP & A Act 1979.

Section 4.46 of the Act – Integrated Development

Protection of the Environment Operations (POEO) Act 1997 - Section 43(d)

The proposed development is classified as a scheduled activity pursuant to Schedule 1 of the *POEO Act 1997* for the following reasons:

- The resource recovery facility is located in a regulated area; and
- The facility receives more than 6,000 tonnes of non-hazardous waste per annum.

An EPL granted by the EPA applies to the existing development with licenced throughput of 35,000 tonnes per annum with an authorised amount limitation of 18,500 tonnes at any one time.

The EPA have issued GTA's for the proposal and the applicant will be required to amend the existing EPL to reflect the increase in production.

Section 7.11 of the Act – Developer Contributions

The applicant will be required to pay or procure payment to Council a developer contribution in accordance with the Cessnock City Wide Infrastructure Contributions Plan 2020. This contribution is calculated for each tonne of material transported to and from the site. The amount is calculated and paid on a quarterly basis from the date the development commences, and is utilised for the rehabilitation, restoration, repair and/or maintenance of the haul route.

The applicant or operator will be required to provide Council with certified copies of weighbridge or other returns or records showing the true quantities of material transported to and from the facility to enable Council to determine a rate per tonne per kilometre using the methodology set out in the Cessnock City Wide Infrastructure Contributions Plan 2020.

A suitable condition of consent has been imposed regarding these contribution requirements.

INTERNAL AND EXTERNAL REFERRALS

The Development Application was referred to the following Council sections for comment:

Referral Officer	Date	Comments
Development Engineer	12 February 2020	The application has been assessed by Council's Development Engineer as being satisfactory subject to appropriate conditions of consent.
Ecologist	13 May 2020	As there will be no vegetation removal associated with the development, Council's Ecologist has raised no objection to the proposal.
Environmental Health Officers	21 May 2020	Council's Environmental Health Officer raised no objection to the proposal subject to compliance with the GTA's and EPL issued by EPA.
Community Planning	21 May 2020	<p>Assessment of the proposal was made in accordance with the Cessnock Development Control Plan (DCP), Part C General Guidelines, Chapter 8, 'Social Impact Assessment & Crime Prevention through Environmental Design Guidelines for a Proposed Development'.</p> <p>The proposal does not fall within the DCP's assessment criteria as a development type requiring a Social Impact Comment or Social Impact Assessment. As such, Council's Community Planner raised no objection to the proposal.</p>
Strategic Planning (Contributions)	5 August 2020	Council's Contributions Planner provided a condition to be imposed regarding a monetary contribution towards road maintenance (haulage levy).

The Development Application was referred to the following external authorities for concurrence/comment:

Referral Officer	Date	Comments

NSW Rural Fire Service	8 October 2019	No objection raised subject to suitable conditions of consent.
Transport for NSW	30 January 2020	No objection raised subject to suitable conditions of consent.
Office of Environment and Heritage	16 April 20	No objection raised with regards to likely impacts on cultural heritage.
Environment Protection Authority	30 April 2020	No objection raised subject to the development complying with EPA's GTA's and EPL.
Natural Resource Access Regulator	19 May 2020	No activity approval required as no works are proposed within 40 metres of the adjoining creek
NSW Police		NSW Police were notified, however no response was received.

CONCLUSION

The Development Application has been assessed in accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, and all other relevant instruments and policies.

As outlined in the report, the assessment has taken into consideration the relevant planning provisions and the proposal is supported based on the following:

- There are no matters within a *SEPP* that restricts the proposal from being granted development consent;
- The proposed development is consistent with the *CLEP 2011*. In particular, it is considered that the proposal is permissible on the land and will suitably meet the objectives of the zone;
- Council officers have assessed the proposal against the requirements of the Cessnock DCP 2010 and determined that it is consistent with the prescriptive and performance based provisions;
- The single objection received during the public notification period has been considered pursuant to Section 4.15(1)(d), and the matters raised are not considered sufficient to justify refusal of the application; and
- Overall, the application is considered to be in the wider public interest.

It is therefore recommended that the application be approved subject to the conditions contained at the end of this report.

CONDITIONS OF CONSENT

SCHEDULE 1

TERMS OF CONSENT

1. General Terms of Approval

All General Terms of Approval issued by NSW EPA shall be complied with prior, during and at the completion of the development, as required.

The General Terms of Approval include the following:

- a) NSW EPA (Notice Number 1594368), dated 30 April 2020.

A copy of the General Terms of Approval is attached to this determination notice.

2. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2019/568/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Proposed Works	Thomas Building Design	1 July 2020

Project No. 170503 Revision 7 Sheet No. EIS - 01		
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Document Title	Prepared By	Dated
Environmental Impact Statement Revision 7	GEM Planning Pty Ltd	15 July 2019 Addendum – 4.9.19 Addendum – 5.3.20
Noise Impact Assessment	EMM	March 2020

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

3. Operational Requirements

This consent permits the following:

- The maximum amount of waste permitted to be received at the premises is 90,000 tonnes per year.
- The maximum amount of waste permitted to be stored on the premises at any one time is 30,000 tonnes.
- Only permitted waste material collected, stored and processed shall be general solid waste (non-putrescible) as prescribed in the General Terms of Approval and Environment Protection Licence (EPL) issued by the Environment Protection Authority (EPA).

4. Stockpile Heights

Stockpile heights shall not exceed 6 metres from ground level.

5. Hours of Operation

Hours of operation permitted are Monday to Saturday (24 hours). The facility is not permitted to operate on Sundays or Public Holidays.

6. Bushfire Protection

The following bushfire protection measures are to be implemented at the commencement of building works, and maintained for the life of the development:

a) Asset Protection Zones

The existing 10 metre wide defensible space located along the northern boundary of the site (behind the buildings) shall be managed in perpetuity as an inner protection area (IPA) as outlined within Section 4.1.3 and Appendix 5 of *Planning for Bushfire Protection 2006* and the NSW Rural Fire Services document 'Standards for Asset Protection Zones'.

b) Water and Utilities

Water, electricity and gas to comply with Section 4.1.3 of *Planning for Bushfire Protection 2006*

c) Design and Construction

Any new construction works shall comply with the National Construction Code 2019 Structural Fire Safety requirements.

d) Fencing

Any new fencing shall comply with NSW Rural Fire Service “Fast Fact 2/06” for Fences and Gates in Bush Fire Prone Areas.

PRIOR TO COMMENCEMENT OF WORKS

The following conditions are to be complied with prior to the commencement of works on the subject site.

7. S138 Roads Act Approvals

An approval under Section 138 of the *Roads Act 1993* is required for the proposed new concrete access crossing from Styles Street. Approval will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The S138 application is to be submitted to, and approved by, Council prior to works commencing.

8. Public Liability Insurance

Any person or contractor undertaking works on public property must take out Public Risk insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within, public property. The Policy is to note, and provide protection for Cessnock City Council as an interested party, and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property. The insurance shall also note the location and the risk.

DURING WORK

The following conditions are to be complied with during works being undertaken on the subject site.

9. Relocation of Services

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.

10. Road – Obstruction of Footpath Restriction

No obstruction is to be caused to Council's footpaths, roads and/or other public areas during construction of the development.

No spoil, building materials, excavated or demolition material from the site shall be stored or deposited on the public road, footpath, public place or Council owned property, without prior approval of Council.

11. Location of Council Pipes

During all phases of demolition, excavation and construction, it is the full responsibility of the applicant and their contractors to:

- a) Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works
- b) Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits
- c) Ensure dedicated overland flow paths are satisfactorily maintained through the site

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage, and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease, and the PCA and Council must be contacted immediately for advice. Any damage caused to the Council stormwater drainage system must be immediately repaired in full as directed, and at no cost to Council.

12. Construction Vehicles

Construction material and vehicles shall not be placed on public footpaths. The use of footpaths or roadways shall be undertaken in accordance with the prevailing kerbside restrictions, the Australian Road Rules and Council's Parking Code.

13. Erosion and Sediment Controls

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

14. Stormwater Runoff

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

PRIOR TO COMMENCEMENT OF OPERATIONS

The following conditions are to be complied with prior to the commencement of works on the subject site/s.

15. Surrender of Consent

Prior to the commencement of operations, Development Consent No. 8/2005/1088/1 determined by Council on 5 March 2008, must be surrendered in accordance with the provisions of Section 4.63 of the *Environmental Planning and Assessment Act 1997*.

16. Completion of Solid Fence on Western Boundary

Prior to the commencement of operations, the solid boundary fence proposed along the western boundary of the site approved under Development Consent No. 8/2018/892/1, must be completed in accordance with the approved plans.

17. Parking and Access

Prior to the commencement of operations, on site car parking must be provided for a minimum of twenty-four (24) vehicles and such being set out in accordance with the approved development plan and Council's Car Parking Code.

A total of one (1) car parking space for use by persons with a disability must be provided as part of the total car parking requirements.

All driveways, access corridors and car parking areas are to be designed in accordance with *AS2890.1 & AS2890.2 - Parking Facilities*

18. Environmental Management Plan

Prior to the commencement of operations, the development and implementation of an Environmental Management Plan (EMP) for ongoing operational actions will be required to be submitted with Council. The plan shall be in accordance with the EPA's General Terms of Approval and is to include, but not limited to:

- Dust management process and procedures for the facility to address the conditions of the General Terms of Approval;
- Monitoring and inspection program for surface water;
- Noise reduction procedures and processes for the facility to achieve the conditions of the General Terms of Approval;
- Procedures/processes to manage the number and time of truck deliveries in consideration of night time noise/peak activity levels;

- The development of procedures/processes to ensure minimal mobile plant units are operated during the evening night-time period;
- Pest management procedures; and
- A complaint process for the operation, including a register, investigations undertaken and corrective actions implemented.

19. Truck Management Plan

A truck management plan must be approved by Council prior to the commencement of operations ensuring the major truck route to and from the site is via the Hunter Expressway from Hart Road. The management plan must not permit heavy vehicles to use Government Road south of Mitchell Avenue and provide an alternative route.

20. Roads – Concrete Crossing

Prior to the commencement of operations, the registered proprietors shall construct and maintain a concrete access crossing from the kerb and gutter in Styles Street to the property boundary in accordance with the approved development plans and Council's "Engineering Requirements for Development" and AS 2890.1.

A S138 Roads Act Approval is required from Council prior to any construction commencing within the road reserve.

Construction of the crossing will require inspections to be undertaken by Council. The applicant shall pay Council engineering site supervision fees in accordance with Council's current Fees & Charges, prior to the inspections being undertaken.

The initial fee will facilitate approval of the application and one (1) construction inspection (steel and formwork inspection).

A final inspection will be required upon completion of the driveway and restoration of all disturbed footway areas. A separate fee will be required to be paid when the final inspection is booked. Should further inspections become necessary as a result of unsatisfactory or defective works, additional inspection fees will be charged in accordance with Council's current Fees & Charges.

The applicant is to advise Council at least 48 hours prior to inspection of works within the footpath and/or road reserve.

21. Road – Removal of Redundant Infrastructure

Prior to commencement of operations, all redundant vehicular accesses shall be removed, and the footpath, road shoulders and kerb and gutter, where applicable, restored to match existing conditions at no cost to Council.

ONGOING OPERATIONAL REQUIREMENTS

The following conditions are to be complied with as part of the ongoing use of the premises.

22. Section 7.11 Contribution - Traffic Generating Development

The applicant shall pay or procure payment to the Council of a developer contribution under Section 7.11 of the Environmental Planning and Assessment Act (1979) for each tonne of material transported to and from the subject site, and in respect of the said contribution, the following provisions shall apply:

- a) The contribution will be calculated and paid on a quarterly basis from the date on which development consent became effective.
- b) At the end of the first quarter of operations, ie the last day of March, June, September or December, whichever occurs first, the applicant or operator shall deliver or procure delivery to the Council of certified copy of weighbridge or other returns or records showing the true quantities of material transported to and from the facility during the immediately preceding quarter. The application or operator must also provide the true number of fully laden heavy vehicle movements to/from the site and the Council will then, as soon as it can conveniently do so, determine a rate per tonne per kilometre using the methodology set out in the Cessnock City Wide Infrastructure Contributions Plan.
- b) At the end of the second quarter and each quarter thereafter for the duration of the consent, the applicant or operator shall email a quarterly return to contributions@cessnock.nsw.gov.au showing returns or records showing the true quantities of material transported to and from the facility during the immediately preceding quarter. The Council will then, as soon as it can conveniently do so, issue an invoice to the applicant or its consenting assignee, who will pay to the Council in accordance with the terms of the invoice.
- d) The contribution rate imposed under this condition will be indexed and adjusted quarterly in accordance with the Consumer Price Index for Sydney All Groups for the duration of the development consent. The quantum of the adjustment will be consistent with the change in CPI over the preceding quarter to the last day of March, June, September and December of each year. At the time of payment of contributions, the contributions payable will be adjusted and the amount payable will be calculated on the basis of the contribution rate that is applicable at the time of payment.
- e) The Council has the right to inspect and have the original records relating to any of the extracted/processed material, including numbers and types of laden trucks, trailers and load quantities transported from the property audited, or monitor any nominated haulage routes any time.

- f) The Council will pay all of the said contribution payments into a specially identified account for payments towards the rehabilitation, restoration, repair and/or maintenance of the haul route.

This condition has been imposed in accordance with the Cessnock City Wide Infrastructure Contributions Plan. A copy of this plan may be inspected on Council's website: www.cessnock.nsw.gov.au

23. Lighting

Lighting must be provided for the security of staff and visitors that may be leaving the premises after dark. The lighting must be connected to a self-activating system to provide suitable illumination of the common parking area at all hours of operation after dark.

Any proposed floodlighting of the premises including the lights for the car park must be so positioned, directed and shielded so that it does not interfere with traffic safety or detract from the amenity or project glare onto the adjacent premises

24. Offensive Noise or Vibration

The use and occupation of the site including construction plant and equipment installed thereon, shall not give rise to any offensive noise or vibration within the meaning of the *Protection of the Environment Operations Act, 1997*.

25. Ecology Considerations

The site shall be managed for the life of the development in a manner which protects and preserves the integrity of any Endangered Ecological Communities located within the adjoining Swamp Creek vegetation corridor.

26. Landscaping to be Maintained

All landscaping must be maintained in good condition for the life of the development.

27. Driveways to be Maintained

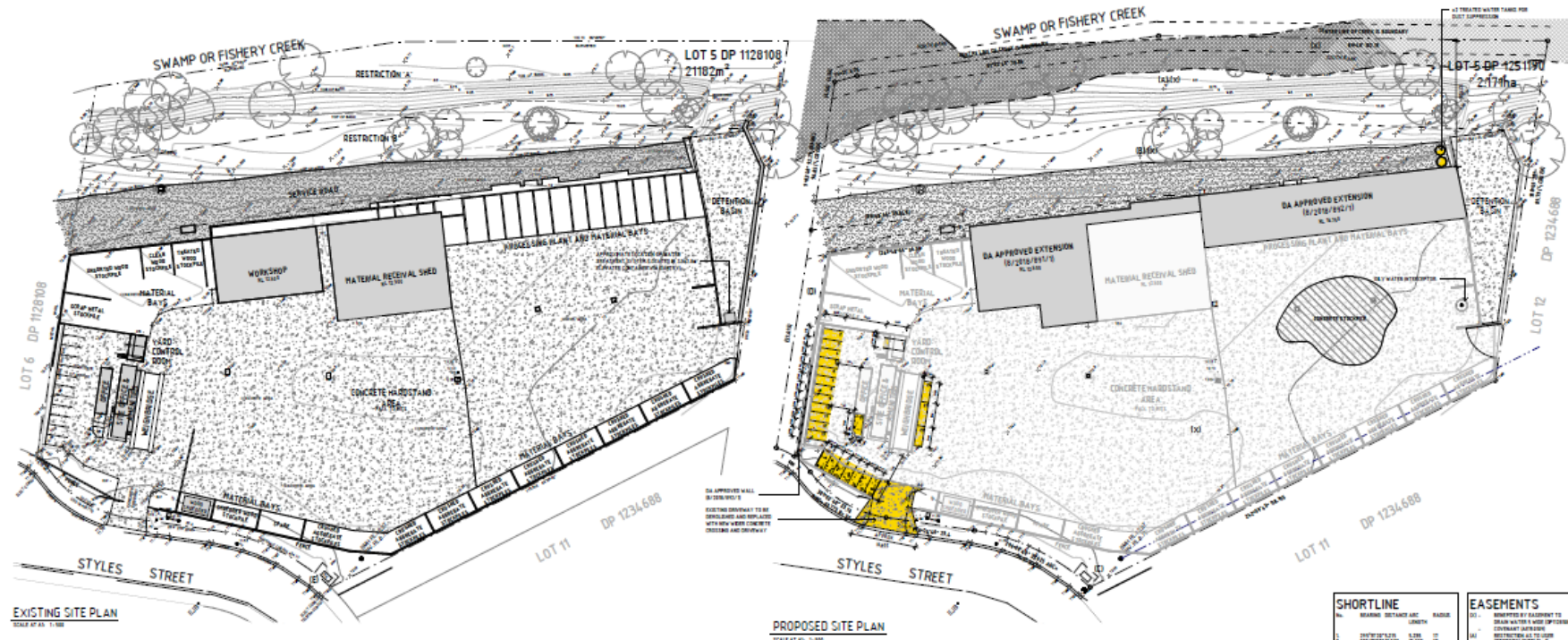
All access crossings and driveways shall be maintained in good order for the life of the development.

ADVISORY NOTES

28. Responsibility for Other Consents/Agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

APPENDIX A- DEVELOPMENT PLANS



PROPOSED WORKS

- NEW 300V 3PHASE 4WIRE 150A
- NEW 300V 3PHASE 4WIRE 150A
- RECONSTRUCT 300V 3PHASE 4WIRE 150A

LEGEND

- EXISTING
- PROPOSED
- RECONSTRUCT
- RECONSTRUCT

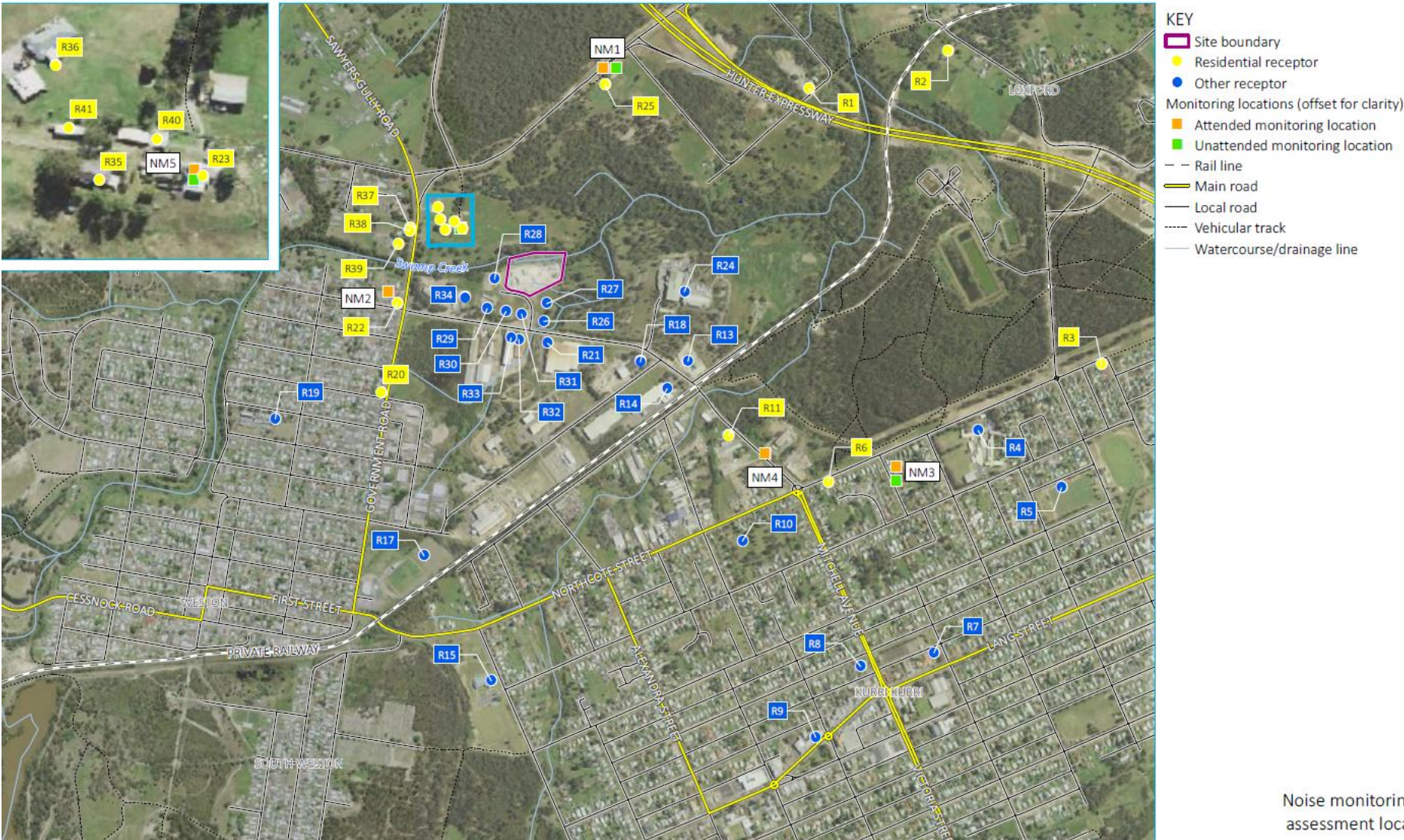
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APPENDIX B- PLAN OF NOISE MONITORING ASSESSMENT LOCATIONS



APPENDIX C- GENERAL TERMS OF APPROVAL ISSUED BY EPA

Protection of the Environment Operations Act 1997

General Terms of Approval - Issued



Notice No: 1594368

The General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Attention: Ms Kerry Porter

Notice Number 1594368
Date 30-Apr-2020

Issued pursuant to Section 4.46 Environmental Planning and Assessment Act 1979

Re: Expansion of Resource Recovery Facility - 8 Styles St Kurri Kurri - CNR 1556

I refer to the development application and accompanying information provided for the proposed expansion of a resource recovery facility which was received by the Environment Protection Authority (EPA) on 19 March 2020.

The applicant and occupier of the site, Central Waste Plant Pty Ltd, holds Environment Protection Licence 13013 (the Licence) which was issued on 4 March 2010 for waste activities at 8 Styles St Kurri Kurri (the Premises). The current proposal is to increase the production of the waste facility to up to 90,000 tonnes per year of building and demolition waste for processing and beneficial reuse at offsite locations.

EPA has reviewed the information provided and has determined that it is able to provide general terms of approval for the proposed increase, subject to conditions.

Should Council grant consent, the applicant will need to make a separate application to EPA to vary the Licence. Council should also be aware of the conditions currently in place on the Licence.

General Terms of Approval

Should Cessnock Council grant development consent for this proposal, the EPA recommends the following conditions should be incorporated into the consent:

- Activity: Resource Recovery, Waste Storage
- Waste type permitted to be accepted for recovery or storage: General solid waste (non-putrescible)
(See proposed waste table below)

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Waste	Description	Activity	Tonnes
General solid waste (non-putrescible)	Building and demolition waste including soils and excavated road materials that meets CT1 levels for general solid waste in Table 1 of the EPA's Waste Classification Guidelines 2014	Resource Recovery, Waste Storage	See below

- Maximum amount of waste permitted to be received at the premises in any reporting period (i.e. per year): 90,000 tonnes
- Hours of operation
Monday to Saturday: 24 hours
Sunday and public holidays: No operation
- The height of all wastes stored at the premises must not exceed 6 metres from ground level

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

Conditions for Environment Protection Licence 13013

I also draw your attention to Attachment A, which **should not be included in the consent**, but are conditions intended for the environment protection licence for this proposal (CNR 1556).

If you have any questions, or wish to discuss this matter further please contact Melissa Moore on ph 02 4908 6892.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Steven James', written over a horizontal dotted line.

Steven James
Unit Head Metro North
Environment Protection Authority
(by Delegation)

General Terms of Approval - Issued



Notice No: 1594368

Attachment A – proposed Licence conditions

Limit conditions

Lx. Waste

The licensee must not cause, permit or allow any waste to be received at the premises, except the wastes expressly referred to in the column titled "Waste" and 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.

Waste	Description	Activity	Tonnes
General solid waste (non-putrescible)	Building and demolition waste including soils that meets CT1 levels for general solid waste in Table 1 of the EPA's Waste Classification Guidelines 2014	Resource Recovery, Waste Storage	See below

Maximum amount of waste permitted to be received at the premises per year: 90,000 tonnes

The authorised amount of waste permitted on the premises cannot exceed XXXX (TBD) tonnes of waste at any time.

Notwithstanding any limit specified in the above table, the licensee shall not exceed the authorised amount specified in this licence. Where the authorised amount is less than the total of all wastes listed above, the authorised amount takes precedent.

The licensee must ensure that the height of all wastes stored at the premises does not exceed 6 metres from ground level, metres or the boundary wall, whichever is lower.

The licensee must ensure that height markers are installed where waste is stored, and the markers:

- indicate height above 5 metres in 10 centimetres increments;
- clearly identify 6 metres; and
- are visible to all working areas around the stockpile or storage area.

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Noise Limit Conditions

Lx.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	Evening	Night	Night
	LAeq(15 minute)	LAeq(15 minute)	LAeq(15 minute)	LAFmax
4 Horton Road, Loxford (Lot 439, DP 755231) 7 McLeod Road, Loxford (Lot 70, DP 755231) 72 Hart Road, Loxford (Lot 434, DP 755231)	49	48	43	56
20 James Street, Kumi Kumi (Lot 1, DP255271) 66 Northcote Street, Kumi Kumi (Lot 23, DP263462) 122 Mitchell Avenue, Kumi Kumi (Lot 527, DP755231)	46	44	40	52
62 Government Road, Weston (Lot 21, DP979187) 86 Government Road, Weston (Lot 122, DP1062343) 18 Hart Road, Loxford (Lot 101, DP1010661) 65 Government Road, Loxford (Lot 100, DP1010661) 67 Government Road, Loxford (Lot 1, DP560471) 94C Government Road, Weston (Lot 3, DP1192243) 94B Government Road, Weston (Lot 2, DP1192243) 92 Government Road, Weston (Lot 2, DP1016497) 16 Hart Road, Loxford (Lot 3, DP560471)	49	48	43	54

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65 Government Road, Weston (Lot 22, DP979187)				
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Lx.2 For the purposes of condition Lx.1:

- Day means the period from 7am to 6pm Monday to Saturday and the period from 8am to 6pm Sunday and public holidays.
- Evening means the period from 6pm to 10pm.
- Night means the period from 10pm to 7am Monday to Saturday and the period from 10pm to 8am Sunday and public holidays.

Lx.3 Noise-enhancing meteorological conditions:

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

Assessment Period	Meteorological Conditions
Day	Stability Categories A, B, C, D and E with wind speeds up to and including 3m/s at 10m above ground level.
Evening	Stability Categories A, B, C, D and E with wind speeds up to and including 3m/s at 10m above ground level.
Night	Stability Categories A, B, C, D and E with wind speeds up to and including 3m/s at 10m above ground level; or Stability category F with wind speeds up to and including 2m/s at 10m above ground level.

- For those meteorological conditions not referred to in condition Lx.3(a), the noise limits that apply are the noise limits in condition Lx.1 plus 5dB.

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

- The meteorological conditions are to be determined from meteorological data obtained from a meteorological weather station on site
- Stability category shall be determined using the following method from Fact Sheet D of the *Noise Policy for Industry* (NSW EPA, 2017):
 - Pasquill-Gifford stability classification scheme (section D1.3.1).

Lx.5 To assess compliance:

- with the LAeq(15 minutes) or the L_{Amax} noise limits in condition Lx.1 and Lx.3, the noise measurement equipment must be located:
 - approximately on the property boundary, where any residence is situated 30 metres or less from the property boundary closest to premises; or where applicable,

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- (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 Lx.1
- b) with the LAeq(15 minutes) or the LMax noise limits in condition Lx.1 and Lx.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 Lx.5(a).
- Lx.6 A non-compliance of conditions Lx.1 and Lx.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 Lx.5 (a) or Lx.5 (b).
- Note** to Lx.5 and Lx.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.
- Lx.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.
- Lx.8 Noise measurements must not be undertaken where rain or wind speed at microphone level will affect the acquisition of valid measurements.

Operating Conditions

Ox - Dust

The premises must be maintained in a condition so that dust is not emitted from the premises.

Activities must be carried out in a manner that minimises the generation of dust at the premises.

Potential dust generation from external crushing and shredding activities must be controlled by water sprays and fogging cannons.

The licensee must prevent the emission of dust from the premises.

All roads and surfaces for on-site handling, processing and storage of waste materials must be sealed.

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With the exception of loads that are solely concrete, metal or timber, all incoming vehicles containing waste must be unloaded directly into the processing shed.

The processing shed must be fitted with misting nozzles distributed along the roof trusses. The misting nozzles must be operated at all times when waste material handling and/or processing activities are being undertaken.

Fog curtains must be installed at all the processing shed doors. Fog curtains must operate during waste material handling and processing operations.

The external processing line air emissions must be ducted to the bag house system.

Dust suppression sprays must always be used during the operation of the processing line.

All processing line conveyors must always be covered during the operation of the processing line.

All waste material and product must be stored in bunkers with three side-walls.

Trucks entering and leaving the premises must have their loads covered, except during material inspection, unloading and loading.

A maximum of one set of crushing plant and equipment can be in operation at any one time.

The proponent must develop and implement an air quality management plan (AQMP) prior to the commencement of project operations. As a minimum, the air quality management plan must include the following parts:

- i. Risk assessment;
- ii. Proactive and reactive mitigation measures of all significant, and potentially significant, emissions sources
- iii. Key performance indicator(s);
- iv. Monitoring method(s);
- v. Location, frequency and duration of monitoring;
- vi. Record keeping;
- vii. Response mechanisms and contingency measures; and
- viii. Responsibilities;
- ix. Compliance reporting.

Monitoring Conditions

Mx Weather Monitoring

Mx.1 The licensee must install and maintain a meteorological station on the premises, which complies with the requirements of the current version of the *Approved Methods for Sampling of Air Pollutants in New South Wales*.

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Reporting Conditions

Rx - Reporting of noise monitoring

Rx.1 The Licensee must provide the EPA with its Annual Return an annual noise compliance assessment report prepared by a competent person. The report must include an assessment of any exceedance of noise limits and justification that the noise monitoring points selected for the purposes of fulfilling this condition are representative of the sensitive receivers within Table Lx.

Note : the definition of "competent person" is as follows:

Competent person must satisfy one or more of the following:

- have qualifications and/or experience sufficient to fulfil the requirements of 'member' grade of the Australian Acoustical Society;
- undertake the duties of an acoustics consultant on behalf of a consultancy firm that is a member of the Association of Australasian Acoustical Consultants;
- have a recognised tertiary qualification in a discipline pertinent to acoustics; or
- demonstrate competence through professional experience and/or technical expertise to the satisfaction of the EPA.

Rx – Other reporting conditions

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

- Time and date when the fire was deliberately started or reported;
- Whether the fire was authorised by the licensee, and, if not, the circumstances which ignited the fire;
- The time and date that the fire ceased and whether it burnt out or was extinguished;
- The location of the fire (e.g. garden waste, finished compost etc);
- Prevailing weather conditions;
- Observations made in regard to smoke direction and dispersion;
- The amount of waste that was combusted;
- Action taken to extinguish the fire; and
- How leachate generated from extinguishing the fire was managed.

The licensee or its employees must notify the EPA in accordance with conditions R2.1 and R2.2 of all fires at the premises as soon as practical after becoming aware of the incident.

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E1. Financial Assurance

A financial assurance in the form of an unconditional and irrevocable and on demand guarantee from a bank, building society or credit union operating in Australia as "Authorised Deposit-taking Institutions" under the banking Act 1959 of the Commonwealth of Australia and supervised by the Australian Prudential regulatory Authority (APRA) must be provided to the EPA.

The financial assurance must be favour of the Environment Protection Authority in the amount of three hundred thousand dollars (\$300,000) by (date to be determined) being received at the premises. The financial assurance is required to secure or guarantee funding for works or programs required by or under this licence. The financial assurance must contain a term that provides that any monies claimed can be paid to the EPA or, at the written direction of the EPA, to any other person. The licensee must provide to the EPA, along with the original counterpart guarantees, confirmation in writing that the financial institution providing the guarantees is subject to supervision by APRA.

The financial assurance must be maintained during the operation of the facility and thereafter until such time as the EPA is satisfied the premises is environmentally secure.

The EPA may require an increase in the amount of the financial assurance at any time as a result of reassessment of the total likely costs and expenses of rehabilitation of the premises.

The EPA may claim on a financial assurance under s303 of the *Protection of the Environment Operations Act 1997* if a licensee fails to carry out any work or program required to comply with the conditions of this licence.

The financial assurance must be replenished by the full amount claimed or realised if the EPA has claimed on or realised the financial assurance or any part of it to undertake a work or program required to be carried out by the licence which has not been undertaken by the licence holder.