

Comlix Pty Ltd Trustee for Comlix Unit  
Trust  
PO Box 130  
WEST WALLSEND NSW 2286

Contact: Mr P Giannopoulos  
Our Ref: DA 8/2005/1088/1  
Your Ref: -

Dear Sir/Madam

**NOTICE OF DETERMINATION OF APPLICATION  
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)**

Pursuant to Section 81(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) notice is hereby given of the determination by Cessnock City Council of **Development Application Number 8/2005/1088/1**, for development on the subject land as described below. The application has been determined by :-

**GRANTING OF CONSENT SUBJECT TO CONDITIONS**

as specified in **SCHEDULE 1** of this Notice.

<b>Date of Determination:</b>	05/03/2008
<b>Date from which Consent Operates:</b>	11/03/2008
<b>Date from which Consent Lapses:</b>	11/03/2013
<b>Description of Development:</b>	Industry Comprising an Inert Waste Recycling Facility Incorporating Concrete Crushing
<b>Property Description:</b>	LOT: 1001 DP: 1062120 141 Mitchell Avenue KURRI KURRI
<b>Applicant:</b>	Comlix Pty Ltd Trustee for Comlix Unit Trust
<b>Owner:</b>	Jukar Pty Ltd

Your attention is directed to the provisions of Section 95 of the Environmental Planning and Assessment Act 1979 (as amended). Should the development not be substantially commenced within five years of the date of determination of this approval, the approval will lapse and a further application will be required.

Should you consider any conditions of consent unreasonable or inappropriate you may apply to have them reviewed. Council provides an internal review process to consider objections to conditions of development approval. An application pursuant to Section 96 of the Environmental Planning & Assessment Act 1979 (as amended) must be made accompanied by the prescribed fee in accordance with Council's current fees and charges. Applicants who are not satisfied with the results of an internal review may seek to have their conditions of consent reviewed by Council's **Planning Review Committee**.

If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 (as amended) gives you the right of appeal to the Land and Environment Court within twelve (12) months from the date of determination.

## **SCHEDULE 1**

### **TERMS OF CONSENT**

#### **General**

1. The erection of a building in accordance with a development consent shall **not** be commenced until:-
  - (a) detailed plans and specifications of the building have been endorsed with a **construction certificate** by:-
    - (i) the consent authority; or
    - (ii) an accredited certifier, and
  - (b) the person having the benefit of the development consent:-
    - (i) has **appointed a principal certifying authority**, and
    - (ii) has notified Council of the appointment, and
  - (c) the person having the benefit of the development consent has given at least 2 days notice to the Council of the persons intention to commence erection of the building.

#### **Reason**

*To ensure the applicant complies with the provision of the Environmental Planning and Assessment Act 1979 (as amended).*

2. The proposed development shall be carried out strictly in accordance with the details set out on the application form, Environmental Impact Statement dated 19 October 2005 Plans prepared by MJD Design Dwg. No. 050202, Asqueth de Witt Ref 36777 Dated February 2007 Version A Fig 1&2, Asqueth de Witt Ref 36777 Dated November 2007 Version E Ecobiological Plan SP1 Issue A Job No. 373 Handling Procedure submitted to Council on the 18 January 2007 and any other information submitted in support of the application, except as modified by the conditions of this consent.

**Note:** Any proposal to modify the terms or conditions of this consent, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application under Section 96 of the Environmental Planning and Assessment Act 1979 for Council's consideration. If amendments to the design result in the development not remaining substantially the same as that approved by this consent, a new development Application will have to be submitted to Council

#### **Reason**

*To confirm and clarify the terms of Council's approval.*

3. This consent is limited to the handling of waste to a maximum of 29,500 tonnes per year.

Reason

*To confirm and clarify the terms of Council's approval .*

4. All building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

Reason

*This is a prescribed condition under Section 80A(11) of the Environmental Planning and Assessment Act, 1979.*

5. 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.

Reason

*To ensure that the development provides safety and security for the staff and public.*

6. 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.

Reason

*To ensure that the proposal does not interfere with traffic safety and to protect the existing amenity of the neighbourhood.*

7. 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.

Reason

*To ensure that any required alterations to utility infrastructure are undertaken to acceptable standards at the developer's cost.*

Access, Car parking and Loading Arrangements

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

Reason

*To ensure that a safe adequate all-weather access is available to the development.*

## **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **General**

9. The applicant shall comply with the requirements of the Hunter Water Corporation Ltd., in respect of any building or structure proposed to be erected over any services or stormwater drain under the Corporation's control. Details of the Hunter Water Corporation's requirements shall be provided to Council prior to the release of the Construction Certificate.

#### **Reason**

*To protect the Corporation's infrastructure for site development works.*

10. Prior to the issue of a Construction Certificate the consent authority must be provided with documentary evidence that the Department of Natural Resources has granted a permit approval under Part 3A of the Rivers and Foreshores Improvement Act 1948 for the proposal.

#### **Reason**

*To ensure that only approved works are carried out.*

11. Building materials and painting or other external finishes shall be of dark natural tones with low reflective quality, or such other treatment as may be appropriate to ensure that the buildings are not visually intrusive. All buildings to be finished in a similar colour or a complementary colour scheme. Colours and materials to approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

#### **Reason**

*To minimise the visual impact of building and structures in the landscape.*

### **Landscaping**

12. A suitable plan shall be submitted and approved by the Principal Certifying Authority showing details of landscaping. The plan shall include a landscape schedule with details of mounding, ground cover and maintenance procedures. The vegetation shall consist of low maintenance native species that are endemic to the area. The landscaping must be undertaken at front and side boundaries of the site to restrict the view of the development from the road and neighbouring sites and designed so that, when mature, will provide a significant visual barrier that will screen of the development.

#### **Reason**

*To ensure landscaping is provided for visual relief and to screen the development.*

### **Building Construction**

13. Plans showing the extent of excavation and/or filling together with details of the method of retaining, draining and stabilising the disturbed areas shall be submitted to and approved by Council prior to issue of the Construction Certificate.

#### **Reason**

*To determine that satisfactory arrangements have been made to reduce environmental and building damage.*

Access, Carparking and Loading Arrangements

14. The Registered Proprietors shall construct a reinforced concrete access crossing from the kerb and gutter to the property boundary, including a layback in the kerb, in accordance with Council's Engineering Requirements for Development (available at Council's offices) and Australian Standard 2890.1 & 2 with respect to location, size and type of driveway. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate.

Reason

*To ensure the provision of safe, adequately defined and properly constructed means of vehicular access from the road to the development.*

15. On-site car parking shall be provided for a minimum of eighteen (18) vehicles and such being set out generally in accordance with Council's Car Parking Code. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate.

Reason

*To ensure that adequate provision has been made for manoeuvring and parking of vehicles within the development or on the land, to meet the expected demand generated by the development.*

16. All driveways, access corridors and carparking areas are to be designed in accordance with AS2890.1 & 2 - Parking Facilities. The carparking areas shall be constructed with a base course of adequate depth to suit design traffic loadings with a sealed surface treatment, graded and drained in accordance with Council's 'Engineering Requirements for Development'.

Full details shall be submitted and approved by Council prior to the release of the Construction Certificate.

Reason

*To ensure the orderly and efficient use of on-site parking facilities and ensure that adequate provision is made on-site for the loading and unloading of goods.*

17. A separate off-street loading/unloading facility with capacity to accommodate the largest delivery vehicle likely to deliver goods to and from the premises shall be provided for all loading and unloading of vehicles wholly within the property. Such facility shall be constructed clear of the car parking area and driveways. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate.

Reason

*To ensure the orderly and efficient use of on-site parking facilities and that loading and unloading of vehicles does not interfere with the use of public footpaths and roadways.*

Drainage and Flooding

18. A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property and connection to the existing drainage system in accordance with Council's 'Engineering Requirements for Development' (available at Council's offices). Such layout shall include existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development. Full details shall be submitted to and approved by Council prior to release of the Construction Certificate.

Reason

*To ensure that on site stormwater runoff is properly collected and conveyed to an appropriate drainage facility.*

19. The applicant shall ensure that the floor level of the proposed buildings are at least above the area of inundation for a 1 in 50 year flood and the finished ground level of the sales yard and the storage bays is at least above the area of inundation for a 1 in 100 year flood. The 50 year ARI flood level ranges from RL 11.69m AHD at the eastern boundary to RL 11.89m AHD at the western boundary and the 100 year ARI flood level ranges from RL 11.92m AHD at the eastern boundary to RL 12.07m AHD at the western boundary. Details shall be submitted to and approved by Council prior to the release of the Construction Certificate.

Reason

*To ensure that risk to life and property from inundation by flooding is minimised.*

20. The applicant shall submit a report from a suitably qualified and experienced engineer in respect of the proposed development, such report to verify that:-
- (a) any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property;
  - (b) the building structure will be able to withstand the force of flood waters (including buoyancy forces) and the impact of debris;
  - (c) all finishes, plant fittings and equipment subject to inundation will be of materials and functional capability resistant to the effects of flood waters.
  - (d) All electrical installations are to be 500mm above the 1 in 100 year ARI level. The 100 year ARI flood level ranges from RL 11.92m AHD at the eastern boundary to RL 12.07m AHD at the western boundary.

Note: The report shall be submitted to and approved by Council prior to release of the Construction Certificate for the building/s.

Reason

*To minimise the extent of property damage and the risk of injury in the event of flooding of the site.*

## **PRIOR TO CONSTRUCTION**

21. Prior to the construction of the spillway, a construction management plan must be approved by Council. The management plan must ensure that there will be no over-storey or mid-storey trees removed or damaged as a consequence of the construction of the spillway. The measures to protect the vegetation must include, prior to the removal of vegetation, the marking out of the area that will be disturbed and establishing a 'no-go' zone to prevent activity extending beyond the necessary area of disturbance.

Alternatively a suitably qualified ecological consultant shall be employed to supervise the construction works to ensure that the clearing of vegetation is minimised and in accordance with the terms of the Ecobiological survey and assessment dated 27 April 2007. At the completion of works, documentary evidence shall be provided by the ecological consultant to state that the works have been completed satisfactorily.

### Reason

*To ensure that clearing is minimised and protect the ecology.*

## **DURING CONSTRUCTION**

### General

22. All construction work at the premises must be conducted between 7am and 6pm Monday to Friday and between 7am and 1 pm Saturdays and at no time on Sundays and public holidays, unless inaudible at any residential premises .

### Reason

*To ensure that the environmental quality of adjoining land is not adversely affected, such as by the generation of excessive noise levels.*

23. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, however must be removed when the work has been completed.

### Reason

*This is a prescribed condition under Section 80A(11) of the Environmental Planning and Assessment Act, 1979.*

24. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- (a) must be a standard flushing toilet, and
- (b) must be connected:
  - (i) to a public sewer, or
  - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
  - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

Reason

*To ensure that the development, when constructed, will comply with the Environmental Planning and Assessment Act, 1979.*

25. All building materials, plant and equipment is to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves etc.

Reason

*To ensure pedestrian and vehicular access is not restricted in public places.*

26. 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.

Reason

*To ensure that any required alterations to utility infrastructure are undertaken to acceptable standards at the developer's cost.*

Flooding

27. The floor level of the proposed buildings and the finished ground level of the sales yard and storage bays shall be certified by a registered surveyor as being not less than the 50 and 100 year Average Recurrence Interval (ARI) flood level, respectively. The 50 year ARI flood level ranges from RL 11.69m AHD at the eastern boundary to RL 11.89m AHD at the western boundary and the 100 year ARI flood level ranges from RL 11.92m AHD at the eastern boundary to RL 12.07m AHD at the western boundary. The evidence shall be submitted to Council prior to pouring the slab of the proposed development.

Reason

*To minimise the extent of property damage and the risk of injury in the event of flooding of the site.*



## Site Works

28. 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", Department of Conservation and Land Management's 'Urban Erosion and Sediment Control' requirements and the Department of Housing 'Soil and Water Management for Urban Developments'. 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.

### Reason

*To ensure protection of the environment by minimising erosion and sediment.*

29. The registered proprietor of the land shall place engineered fill on the site. The fill shall be placed in accordance with Council's 'Engineering Requirements for Development' and Australian Standard AS 3798 'Guidelines on Earthworks for Commercial and Residential Developments' and as follows:-

The minimum gradient on the fill shall be 1%. The fill shall be contained wholly within the lot and shall be battered at a maximum grade of 1 in 4 to match existing ground levels at the lot boundary.

The fill shall be certified by a Geotechnical Engineer as being in compliance with AS 3798 and site levels shall be certified by a Registered Surveyor prior to commencement of construction of the building.

### Reason

*To ensure that the lots are filled to above the 100 year ARI flood level to minimise flood damage.*

30. Filling shall not be placed in such a manner that natural drainage from adjoining land will be obstructed.

### Reason

*To ensure that filling placed on land does not affect natural drainage.*

31. Filling shall not be placed on land in such a manner that surface water will be diverted to adjoining land.

### Reason

*To ensure that site works do not result in water being diverted onto adjoining land.*

32. The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring onto adjacent private or public property. The finished ground around the perimeter of the building is to be graded to prevent ponding of water and to ensure the free flow of water away from the building and adjoining properties.

### Reason

*To reduce the risk of environmental and building damage.*

33. Excavations or filling against boundaries are to be adequately retained by retaining walls.

Reason

*To reduce the risk of damage to adjoining properties.*

**PRIOR TO ISSUE OF OCCUPATUION CERTIFICATE**

General

34. Occupation or use of premises for the purposes approved by this consent shall not commence until all conditions of this consent have been complied with and the Occupation Certificate has been issued.

Reason

*To ensure compliance with the provisions of the Environmental Planning and Assessment Act, 1979, and Council's terms of consent.*

35. All landscaping (required under condition 12 of this consent) shall be completed prior to issue of the occupation certificate.

Reason

*To ensure the site is suitably landscaped, in accordance with condition 12.*

Access, Car Parking and Loading Arrangements

36. The vehicular entrance and exit driveways and the direction of traffic movement within the site shall be clearly indicated by means of reflectorised signs and pavement markings prior to occupation of the building and for the life of the development.

Reason

*To ensure that clear direction is provided to the drivers of vehicles entering and leaving the premises in order to facilitate the orderly and efficient use of on-site parking spaces and driveway access and in the interest of traffic safety and convenience.*

37. A truck management plan must be approved by Council prior to the issue of an Occupation Certificate. The management plan must not permit heavy vehicles to use Government Road south of Mitchell Avenue and provide an alternative route. The management plan must not allow, articulated vehicles, over 19 metres to access the site.

Reason

*To ensure that orderly traffic management of heavy vehicles and to ensure the development operates in accordance with the requirements of the Hunter Regional Development Committee.*

### Drainage and Flooding

38. Prior to the issue of the occupation certificate a flood warning sign of durable material and permanently affixed shall be located in a prominent location within the building. The sign shall advise occupants that the building may be subject to inundation during times of flood.

#### Reason

*To ensure the occupants of the building are aware of the potential flood hazard.*

39. The applicant shall prepare a flood emergency evacuation and management plan for the proposed development. The plan should advise occupants of flood evacuation procedures and emergency contact telephone numbers. The management plan should avoid the letting of the premises during periods of flood emergency or when flood warnings are issued. The applicant should contact Council and the State Emergency Service for advice in the preparation of the management plan.

The evacuation procedures should be permanently fixed to the building in a prominent location and kept up to date at all times.

The management Plan shall be submitted to and approved by Council prior to use or occupation of the development.

#### Reason

*To ensure temporary occupants of the accommodation units are aware of the flood hazard and emergency procedures in the event of flood.*

### **POST OCCUPATION OPERATIONAL REQUIREMENTS**

#### General

40. 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.

#### Reason

*To ensure that the environmental quality of adjoining land is not adversely affected by the generation of excessive noise levels.*

41. There being no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise" or vibration as a result of the proposed development.

#### Reason

*To prevent environmental pollution, to ensure observance of appropriate public health standards and to protect the existing amenity of the neighbourhood.*

42. 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. The development shall not result in the harm or picking of any plant or animal as described in section 118A of the *National Parks and Wildlife Act 1974*, other than the clearing identified in the ecological assessment submitted with this Development Application.

Reason

*To ensure that any threatened species or endangered ecological communities are preserved in perpetuity.*

43. The proposed landscaping must be maintained appropriately for the life of the development in accordance with the approved landscape plan.

Reason

*To ensure that any landscaping is maintained and visual screening is provided in perpetuity.*

**ADVICE**

1. The applicant is advised that an engineering plan checking and site supervision fee of \$543.84 is payable prior to release of the Construction Certificate for the building/s.

Reason

*To meet costs associated with the approval of engineering plans and inspection of construction works.*

2. The applicant is to advise Subdivision and Engineering Co-ordinator at least 48 hours prior to commencement of any construction works on site or associated with the site, together with the approved contractor's name and address.

Reason

*To enable orderly scheduling of inspections.*

**SCHEDULE 2**

**Integrated Approvals**

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION NSW  
GENERAL TERMS OF APPROVAL**

**ADMINISTRATIVE CONDITIONS**

**A 1 Works to be undertaken in accordance with information supplied to the DECC**

- A1.1 Except as provided by these general terms of approval, the works and activities must be undertaken in accordance with the proposal contained in:
- The development application No 8/2005/1088/1 submitted to Cessnock City Council;
  - The document "Environmental Impact Statement Proposed Concrete & Builders Waste Recycling Facility at Mitchell Avenue Weston, NSW" prepared by GSS Environmental and dated 19 October 2005;
  - All additional documents supplied to the EPA in relation to the development prepared by the proponent and its agents including:

- \* Vipac Engineers and Scientists; Acoustic Impact Assessment - Proposed Development of a Concrete Recycling Facility, Lot 5 of proposed subdivision of Lot 1001 DP1062120 Mitchell Avenue Weston dated 20 August 2007 (Report No. 29N-07-0039-TRP-214436-0'; and
- \* Addendum Report contained in a letter from Vipac dated 26 September 2007 - 'Mobile Plant Noise Emissions Survey' (Reference No. 29N-07-0039-GCO-214471-0) unless otherwise specified in these General Terms of Approval.

## **A2 Fit and Proper Person**

- A2.1 The applicant must, in the opinion of the DECC, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

## **LIMIT CONDITIONS**

### **L 1 Pollution of waters**

- L 1.1 Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development and operations, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in and in connection with the carrying out of the development.

### **L2 Waste**

- L2.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.
- L2.2 The above condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.
- L2.3 Except as provided by any other condition of this licence, only the inert waste (as defined in the Protection of the Environment Operations Act 1997 and the DECC's "Environmental Guidelines: Assessment Classification and Management on Liquid and Non-Liquid Wastes" listed below may be stored, transferred and/or recovered by way of separating or processing at the premises: .
- a) Inert building and demolition waste being material resulting from the demolition, erection, construction, refurbishment or alteration of buildings or other structures and which:
    - (i) is not contaminated or mixed with any other type of waste (including wastes classified as 'solid', 'industrial' or 'hazardous' in accordance with the above Guidelines, and
    - (ii) does not contain asbestos waste.
- L2.4 The height of any stockpiles of waste or any processed material or reject material must not exceed three (3) metres above natural ground level.

### **L3 Limit of Activity**

- L3.1 The maximum amount of waste received on site must not exceed 35,000 tonnes over any 12 month period.
- L3.2 No disposal or landfilling of waste must occur at the premises.

**L4 Potentially offensive odour**

L4.1 No condition of this licence identifies a potentially offensive odour for the purposes of section 129 of the Protection of the Environment Operations Act 1997.

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

**L5 Asbestos**

L5.1 The licensee must comply with the condition as specified in this licence or where no specific conditions are provided with relation to asbestos waste, the licensee must comply with the Protection of the Environment Operations (Waste) Regulation 2005.

**L6 Noise Limits**

L6.1 Noise from the premises must not exceed the sound pressure level (noise) limits presented in the Table below. Note the limits represent the sound pressure level (noise) contribution, at the nominated receiver locations in the table.

**Noise Limits (dB(A))**

Location	Day	Evening	Night	
	L <sub>Aeq</sub> (15 minute)	L <sub>Aeq</sub> (15 minute)	L <sub>Aeq</sub> (15 minute)	L <sub>A1</sub> (1 minute)
Residential Premises	38	N/A	N/A	N/A

L6.2 For the purpose of Condition 6.1 : .

- \* Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays,
- \* Evening is defined as the period from 6pm to 10pm
- \* Night is defined as the period from 10pm to 7am Monday to Saturday and 10pm to 8am Sundays and Public Holidays

L6.3 Noise from the premise is to be measured at the most affected point within the residential boundary, or at the most affected point within 30 metres of the dwelling where the dwelling is more than 30 metres from the boundary, to determine compliance with the noise level limits in Condition L6.1.

Where it can be demonstrated that direct measurement of noise from the premises is impractical, DECC may accept alternative means of determining compliance. Reference should be made to Chapter 11 of the NSW Industrial Noise Policy.

The modification factors presented in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable. L6.4 The noise emission limits identified in Condition L6.1 apply under meteorological conditions of wind speed up to 3 metres per second at 10 metres above ground level.

### **Hours of Construction and Operation**

- L6.5 All construction work at the premises must be conducted between 7am and 6pm Monday to Friday and between 7am and 1 pm Saturdays and at no time on Sundays and public holidays, unless inaudible at any residential premises.
- L6.6 Operations at the facility must be conducted between 7am to 5pm Monday to Friday and 7am to 2pm Saturdays. .

### **OPERATING CONDITIONS**

#### **01 Dust**

- 01.1 The premises must be maintained in a condition which minimises or prevents the emission of dust from the premises.
- 01.2 Dust spray systems must be installed and operating to minimise dust from all stockpiles and processing areas at the facility.
- 01.3 Dust sprays and/or dust collection systems must be installed and operating on all crushing, grinding and screening equipment at the premises.
- 01.4 All un-sealed trafficable areas are to be kept damp during operating hours.

#### **02 Wastewater management**

- 02.1 A water management system must be constructed and utilised to manage the collection, storage, treatment, use and disposal of sewage effluent and other wastewater.

#### **03 Stormwater/sediment control - Operational Phase**

- 03.1 Following the construction phase, stormwater management measures must be implemented to mitigate the impacts of stormwater run-off from and within the premises in a manner that is consistent with the Stormwater Management Plan for the catchment. Where a Stormwater Management Plan has not yet been prepared the measures should be consistent with the guidance contained in Managing Urban Stormwater: Council Handbook (available from the EPA).

#### **04 Fuel and chemical storage**

- 04.1 All liquid chemicals, fuels and oils must be stored in containers inside suitable bund(s). Bund(s) are to be designed, constructed and maintained in accordance with the DECC's Technical Guideline "Bundling and Spill Management" available at <http://www.environment.nsw.gov.au/mao/bundingspill.htm>

#### **05 Emergency Response Plan**

- 05.1 The licensee must maintain, and implement as necessary, a current emergency response plan for the premises.
- 05.2 The licensee must keep the emergency response plan on the premises at all times.
- 05.3 The emergency response plan must document systems and procedures to deal with all types of incidents (eg. Spills, explosions or fire) that may occur at the premises or that may be associated with activities that occur at the premises and which are likely to cause harm to the environment.
- 05.4 The emergency plan must be developed within 3 months after the date of issue of the licence.

#### **06 Closure Plan**

- 06.1 The licensee must prepare and submit to the DECC within twelve (12) months prior to the intended closure of the facility, a closure plan in accordance with section 76 of the Protection of the Environment Operations Act 1997.

#### **07 Preventing Fires**

- 07.1 All operations and activities occurring at the premise must be carried out in a manner that will prevent and minimise the risk of fire at the premises.

## **08 Processes and Management**

- 08.1 The licensee must ensure that all waste stored, transferred or recovered by way of separating or processing at the premises as assessed and classified in accordance with the DECC's "Environmental Guidelines: Assessment Classification and Management of Liquid and Non-Liquid Wastes".

## **09 Volumetric Survey**

- 09.1 The licensee must submit to the DECC's Manager Waste Operations, a volumetric survey of the premises carried out by a registered surveyor:
- During June in each year and provided to the DECC in the approved form and manner by no later than 31 July in that year; and
  - During December in each year and provided to the DECC in the approved form and manner by no later than 31 January in that year.

## **010 Screening of Materials to be Processed**

- 010.1 Before any waste material is accepted on site for processing, the proponent must implement procedures to screen and remove any material not permitted by the licence to be processed at the premises.

## **MONITORING AND REPORTING CONDITIONS**

### **M1 Monitoring records**

- M1.1 The results of any monitoring required to be conducted by the DECC's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.
- M1.2 All records required to be kept by the licence must be:
- \* in a legible form, or in a form that can readily be reduced to a legible form;
  - \* kept for at least 4 years after the monitoring or event to which they relate took place; and
  - \* produced in a legible form to any authorised officer of the DECC who asks to see them.
- M1.3 The following records must be kept in respect of any samples required to be collected:
- the date(s) on which the sample was taken;
  - the time(s) at which the sample was collected;
  - the point at which the sample was taken; and
  - the name of the person who collected the sample.

### **M2 Requirement to Monitor Meteorological Parameters**

- M2.1 The licensee must monitor the parameters specified in Column 1. The licensee must use the sampling method, units of measure, averaging period and sample at the frequency, specified opposite in the other columns.

<b>Parameter</b>	<b>Units of Measure</b>	<b>Frequency</b>	<b>Averaging Period</b>	<b>Sampling Method</b>
Rainfall	mm	Daily		AM-4
Wind speed @2 metres	m/s	Continuous	3 hourly	AM-2 & AM-4
Wind speed @ 2 metres	°	Continuous	3 hourly	AM-2 & AM-4
Temperature @ 2 metres	°C	Continuous	3 hourly	AM-4



## **REPORTING CONDITIONS**

- R1 The applicant must provide an annual return to the DECC in relation to the premises as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the premises. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the premises, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.
- R2 The total tonnage of materials received on site during the licence year must be reported with the Annual Return.
- R3 A noise compliance assessment report must be prepared each year and submitted to DECC with the Annual Return. The report shall be prepared by a suitably qualified and experienced acoustical consultant and must provide an assessment of compliance with Condition L6.

## **GENERAL CONDITIONS**

- G1 The applicant must nominate at least two persons (and their telephone numbers) who will be available to the DECC on a 24 hours basis, and who have authority to provide information and to implement such measures as may be necessary from time to time to address a pollution incident or to prevent pollution from continuing as directed by an authorised officer of the DECC.

## **SPECIAL CONDITIONS**

### **E1 Scheduled Development Works**

- E1.1 The proponent must submit with the application for an Environment Protection Licence (EPL) a report which details all dust mitigation measures to be implemented on site to achieve compliance with condition 01 above. This should include, but need not be limited to:
- a) stockpile sprays (designed to automatically activate at specific times and/or wind speeds);
  - b) Mist sprays to other potential dust sources (designed to automatically activate at specific times and/or wind speeds
  - c) Road sprays to all unsealed trafficable areas
  - d) Windbreakers around all potential dust sources
- E1.2 The proponent must submit with the application for an EPL a report, prepared by a suitably qualified engineer regarding the stormwater retention and treatment capacity of the premises.
- E1.3 The report must include calculation of the capacity required to ensure that all rain falling on the premises during a one-in ten year rainfall event can be captured on the premises so that the contaminated stormwater generated by such an event does not escape the premises and pollute waters. The report must show the sources of data and the manner in which the calculations have been determined.
- E1.4 The report must also detail the design, construction and operation of controls to be implemented on site to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction and operational activities. All control structures should conform to the requirements outlined in Managing Urban Storm water: Soils and Construction (available from the Department of Housing) unless otherwise specified.
- E1.5 The proponent must submit with the application for an EPL a noise monitoring program to assess ongoing compliance with the conditions specifying noise limits for the construction and operation of the facility.

The Noise Monitoring Program must include details on but need not necessarily be limited to the following:

- (a) an outline of methodologies for noise monitoring to assess compliance;
- (b) location of noise monitoring which must be representative of any noise affected residence(s) and/or receptor(s); and
- (c) frequency of noise monitoring including justification of the proposed frequency;

**E2 Noise Compliance Monitoring**

- E2.1 A noise compliance assessment must be submitted to the DECC within three (3) months of commencement of operations at the premises. The assessment shall be prepared by a suitably qualified and experienced acoustical consultant and shall assess compliance with noise limits presented in L6.1 under worst case operating conditions.

**E3 Screening Procedures**

- E3.1 Prior to the commencement of operations at the facility, the proponent must submit to the DECC details of how materials not authorised to be received at the premises will be removed from the waste stream received at the facility, and the process to be implemented to screen all waste received at the facility remove materials unsuitable for processing.

**E4 Stockpile Markers**

- E4.1 Prior to commencement of operations at the site, the licensee must install a permanent stockpile height marker that shows the permitted height of stockpiles, being three (3) metres, such that a visual check can be made against the marker to determine the height of the stockpiles.

**E5 Financial Assurance**

- E5.1 A financial assurance in the form of an unconditional and irrevocable guarantee from a bank, building society or credit union in favour of the EPA is required.
- E5.2 The amount of financial assurance is assessed by the EPA prior to issue of the licence. The EPA may increase 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.
- E5.3 The financial assurance is required to secure or guarantee funding for works or programs required by or under the licence.
- E5.4 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.
- E5.5 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.
- E5.6 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.
- E5.7 The EPA may claim on a financial assurance under s303 of the POEO Act if a licensee fails to carry out any work or program required to comply with the conditions of the licence or clean up notice issued under section 91 of the Protection of the Environment Operations Act 1997.

**E6 Environmental Obligations of the Licensee**

- E6.1 While the licensee's premises are being used for the purpose to which the licence relates, the licensee must:
- (a) Clean up any spill, leak or other discharge of any waste(s) or other materials(s) as soon as practicable after it becomes know to the licensee or to one of the licensee's employees or agents.

- (b) In the event(s) that any liquid and non-liquid waste(s) is unlawfully deposited on the premises, such waste(s) must be removed and lawfully disposed of as soon as practicable or in accordance with any direction given by the EPA.
  - (c) Provide all monitoring data as required by the conditions of this licence or as directed by the EPA.
- E6.2 In the event of an earthquake, storm, fire, flood or any other event where it is reasonable to suspect that a pollution incident has occurred or is likely to occur, the licensee (whether or not the premises continue to be used for the purposes to which the licence relates) must:
- (a) Make all efforts to contain all firewater on the licensee's premises;
  - (b) Make all efforts to control air pollution from the licensee's premises;
  - (c) Make all efforts to contain any discharge, spill or run-off from the licensee's premises;
  - (d) Make all efforts to prevent flood water entering the licensee's premises;
  - (e) Remediate and rehabilitate any exposed areas of soil and/or waste;
  - (f) Lawfully dispose of all liquid and solid waste(s) stored on the premises that is not already securely disposed of;
  - (g) At the request of the EPA monitor groundwater beneath the licensee's premises and its potential to migrate from the licensee's premises;
  - (h) At the request of the EPA monitor surface water leaving the licensee's premises and
  - (i) Ensure the licensee's premises is secure.
- E6.3 After the licensee's premises cease to be used for the purpose to which the licence relates or in the event that the licensee ceases to carry out the activity that is the subject of this licence, that licensee must:
- (a) remove and lawfully dispose of all liquid and non-liquid waste stored on the licensee's premises;
  - (b) rehabilitate the site, including conducting an assessment of and, if required, remediation of any site contamination.

## **Mandatory Conditions for all Environment Protection Licences**

### **Operating conditions**

#### **Activities must be carried out in a competent manner**

Licensed activities must be carried out in a competent manner. This includes:

- the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

#### **Maintenance of plant and equipment**

- All plant and equipment installed at the premises or used in connection with the licensed activity:
- must be maintained in a proper and efficient condition; and
- must be operated in a proper and efficient manner.

## **Monitoring and recording conditions**

### **Recording of pollution complaints**

The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies. The record must include details of the following:

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

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

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

### **Telephone complaints line**

The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence. The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint. This condition does not apply until 3 months after this condition takes effect.

## **Reporting conditions**

### **Annual Return documents**

#### **What documents must an Annual Return contain?**

The licensee must complete and supply to the DECC an Annual Return in the approved form comprising:

- a Statement of Compliance; and
- a Monitoring and Complaints Summary.

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

#### **Period covered by Annual Return**

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

Note: The term "reporting period" is defined in the dictionary at the end of the licence. Do not complete the Annual Return until after the end of the reporting period. Where this licence is transferred from the licensee to a new licensee,

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

Note: An application to transfer a licence must be made in the approved form for this purpose. Where this licence is surrendered by the licensee or revoked by the DECC or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on

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

#### **Deadline for Annual Return**

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

#### **Licensee must retain copy of Annual Return**

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

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

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

- (a) the licence holder; or
- (b) by a person approved in writing by the DECC to sign on behalf of the licence holder.

#### **Notification of environmental harm**

The licensee or its employees must notify the DECC of incidents causing or threatening material harm to the environment as soon as practicable after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act. Notifications must be made by telephoning the DECC's Environment Line service on 131 555. The licensee must provide written details of the notification to the DECC within 7 days of the date on which the incident occurred.

#### **Written report**

Where an authorised officer of the DECC suspects on reasonable grounds that:

- (a) where this licence applies to premises, an event has occurred at the premises; or
- (b) where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.

The licensee must make all reasonable inquiries in relation to the event and supply the report to the DECC within such time as may be specified in the request. The request may require a report which includes any or all of the following information:

- the cause, time and duration of the event;
- the type, volume and concentration of every pollutant discharged as a result of the event;
- the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and

- the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
- action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
- any other relevant matters.

The DECC may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the DECC within the time specified in the request.

### **General conditions**

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

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

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

The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.

### **General Terms of Approval**

#### **Rivers and Foreshores Improvement Act 1948**

##### **Standard**

1. The general terms of approval (GT A) relate to development I works on protected land, defined by the Rivers and Foreshores Improvement Act 1948 (RFIA) within the proposed development site.
2. The GTA do not constitute an approval under the RFIA.
3. If the consent authority determines to grant consent, the GT A are to form part of the development consent.
4. Any amendments to the development application may void these GT A.
5. The approval holder must submit, to the Department of Natural Resources (DNR) Newcastle, a completed application form for a permit under Part 3A of the RFIA prior to the commencement of any development works on protected land.
6. The permit application is required to accord with the GT A. Permit Application
7. The approval holder must provide the following with the permit application:
  - (a) A copy of the development consent.
  - (b) A costing based on current industry rates for all development I works that are subject to the GTA. The costing is to cover, but may not be limited to: construction of any stream works, stormwater outlets, associated scour protection and their revegetation; Implementation of a vegetation management plan, including monitoring, reporting and maintenance; decommissioning of any temporary works on protected land, including erosion and sediment controls, other pollution controls or water diversion structures.
  - (c) Stormwater and scour protection design plans prepared by a person with relevant knowledge, qualifications and experience to industry standards.

- (d) A Vegetation Management Plan (VMP) prepared by a person with relevant knowledge, qualifications and experience to industry standards. The VMP is to:
  - detail all the vegetation within forty (40) metres of the protected waters;
  - clearly indicate vegetation to be removed, vegetation to be retained, and vegetation proposed for establishment;
  - utilise local native endemic species; and,
  - include maintenance, monitoring and performance criteria.

#### **Relevant Plans and Documents**

- 8. The approval holder must ensure that development I works are completed in accordance with the following drawings and I or documents:
  - (a) Environmental Impact Statement for Proposed Concrete & Builders Waste Recycling Facility at Mitchell Avenue, Weston, NSW. Reference ADI1-0505-08, dated 19<sup>th</sup> October 2005, prepared by GSS Environmental Pty Ltd.
  - (b) Additional information and plans (Ref 36777, sheets 1 & 2 of 2) dated 24 November 2006, prepared by Asquith & DeWitt Pty Ltd.

#### **Works**

- 9. The approval holder must ensure that all works proposed are designed, constructed and operated to minimise:
  - sedimentation, erosion and scour of the banks or bed of the watercourse, and;
  - adverse impacts on aquatic and riparian environments.
- 10. The approval holder must ensure that work-as-executed survey plans, prepared to a professional standard are provided to DNR upon request.

#### **Riparian Zone**

- 11. The approval holder must ensure that a riparian buffer zone of a least 20 metres, measured horizontally and at right angles to the flow from the top of the bank of protected waters, consisting of local native plant species, is provided and maintained along the watercourse.
- 12. The approval holder must ensure that any Asset Protection Zone required for bushfire protection under the Rural Fires Act 1997 is outside riparian buffer zone.
- 13. The approval holder must ensure that any remnant local native riparian vegetation is protected and not damaged or destroyed by the proposed development works.
- 14. The approval holder must ensure that construction techniques minimise disturbance to soil and vegetation on protected land and within the riparian buffer zone.

#### **Site Rehabilitation**

- 15. The approval holder must ensure that following completion of the works, site rehabilitation protects any remnant local native riparian vegetation and restores riparian zones disturbed or otherwise affected by the development work.
- 16. The approval holder must ensure that any restored riparian zones are made up of a diverse range of endemic native tree, shrub, groundcover and grass species, planted at appropriate densities to achieve an effective and full riparian vegetation structure to the satisfaction of DNR.
- 17. The approval holder must ensure that restored areas are maintained for successful native plant establishment to the satisfaction of DNR. Note: Maintenance may include watering, weed control, replacement of plant losses, disease and insect control, mulching, or any other action necessary for successful plant establishment.

### **Stormwater**

18. The approval holder must ensure that stormwater outlets are designed, located and constructed to minimise any erosion or scour of riparian buffer zones and the bed or banks of protected waters.

### **Advisory Notes**

1. For the purpose of the GT A, the term approval holder refers to the applicant for the integrated development application.
2. Retrospective approval cannot be granted under the RFIA.
3. A permit cannot apply to works that have already been undertaken.
4. A permit will not give the approval holder the right to use and occupy any land without the consent of the registered owners of the property.
5. A permit will not relieve the approval holder of any obligations or requirements of any other acts, regulations, planning instruments or Australian standards.
6. A permit will not apply to works on Crown land, authorised under the Crown Lands Act 1989 (CLA). Note: Use and occupation of Crown land requires approval from the Department of Lands.
7. A permit will not apply to development I works where there is a right lawfully exercisable or other right in force under any act relating to mining.

### **Definitions under RFIA**

The meanings under the RFIA for the following are:

1. **Protected land** means:
  - (a) land that is the bank, shore or bed of protected waters, or
  - (b) land that is not more than forty (40) metres from the top of the bank or shore of protected waters (measured horizontally from the top of the bank or shore), or
  - (c) material at any time deposited, naturally or otherwise and whether or not in layers, on or under land referred to in paragraph (a) or (b).
2. **Protected waters** means:  
a river, lake into or from which a river flows, coastal lake or lagoon (including any permanent or temporary channel between a coastal lake or lagoon and the sea).
3. **River** means:  
any stream of water, whether perennial or intermittent, flowing in a natural channel, or in a natural channel artificially improved, or in an artificial channel which has changed the course of the stream of water and any affluent, confluent, branch, or other stream into or from which the river flows and, in the case of a river running to the sea or into any coastal bay or inlet or into a coastal lake, includes the estuary of such river and any arm or branch of same and any part of the river influenced by tidal waters.

If you have any further enquiries regarding this approval, please contact Council's Corporate & Regulatory Services Department on (02) 4993 4100.

Yours faithfully

D FITZGERALD  
For CESSNOCK CITY COUNCIL

11 March 2008

tt/lwb