



Buttai Gravel Pty Ltd t/a Daracon
Quarries
PO Box 401
Beresfield NSW 2322

Contact: Kerry Porter
Our Ref: DA 8/2019/432/1
Your Ref:

Dear Sir/Madam

**NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

Pursuant to Section 4.16 (cf previous s 80) of the *Environmental Planning and Assessment Act 1979*, Cessnock City Council hereby gives notice that **Development Application 8/2019/432/1** has been determined by the granting of consent, subject to the conditions listed in Schedule 1.

Date of determination:	16 June 2021
Date from which consent operates:	24 June 2021
Date on which consent lapses:	24 June 2026
Description of development:	Resource Recovery Facility
Property description:	LOT: 75 DP: 755260 John Renshaw Drive BUTTAI
Applicant:	Buttai Gravel Pty Ltd t/a Daracon Quarries
Owner:	County Property Holdings Pty Ltd

If you have any further enquiries regarding this notice of determination, please contact Council's Senior Planning Officer, Kerry Porter on telephone 02 4993 4115.

Yours faithfully

Kerry Porter
Senior Planning Officer

ADVICE:

The following matters are included as advice relative to this Application:

- (a) These conditions are imposed to control development, having regard to Section 4.15 (cf previous s 79C) of the *Environmental Planning and Assessment Act 1979*, and are required to:
- prevent, minimise and/or offset adverse environmental impacts;
 - set standards and performance measures for acceptable environmental performance;
 - require regular monitoring and reporting; and
 - provide for the ongoing environmental management of the development.
- (b) This Development Consent will lapse on 24 June 2026.
- (c) The applicant has the right to appeal this determination in accordance with the provisions of Section 8.7 (cf previous s97) of the *Environmental Planning and Assessment Act 1979*.
- (d) The applicant has the right to request a review of the determination of this development application in accordance with the provisions Section 8.3 (cf previous s82A) of the *Environmental Planning and Assessment Act 1979*, and the *Environmental Planning and Assessment Regulation 2000*.
- (e) An objector who is dissatisfied with the determination of this development application does not have the right to appeal to the NSW Land and Environment Court.
- (f) The Independent Planning Commission has not conducted a public hearing in respect of this Application.

ABBREVIATIONS:

<i>AS</i>	Australian Standard
<i>BCA</i>	Building Code of Australia
<i>CC</i>	Construction Certificate
<i>DA</i>	Development Application
<i>EP&A Act</i>	Environmental Planning & Assessment Act 1979
<i>EP&A Regulation</i>	Environmental Planning & Assessment Regulation 2000
<i>OC</i>	Occupation Certificate
<i>OSD</i>	On Site Detention
<i>PC</i>	Principal Certifier
<i>RMS</i>	Roads and Maritime Services
<i>SEPP</i>	State Environmental Planning Policy
<i>WAE</i>	Works as Executed

SCHEDULE 1

TERMS OF CONSENT

1. General Terms of Approval

All General Terms of Approval issued by NSW Environment Protection Authority (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 1595459), dated 2 July 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. 8/2019/432/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Project Area Figure 3.1 File Name (A4) R01/4308_002.dgn 20190531 14.29	Umwelt	Undated
Overall Site Plan Project No. 239995 Number 002 Revision F	ADW Johnson	19 March 2021
Detail Plan: Sheet 1 Project No. 239995 Number 101 Revision F	ADW Johnson	19 March 2021
Detail Plan: Sheet 2 Project No. 239995 Number 102 Revision F	ADW Johnson	19 March 2021
Wheel wash Detail Project No. 239995 Number 111 Revision F	ADW Johnson	19 March 2021
Weighbridge Detail Plan Project No. 239995 Number 112 Revision F	ADW Johnson	19 March 2021

Bunded Concrete Washout Bay and Site Office Detail Plan Project No. 239995 Number 113 Revision F	ADW Johnson	19 March 2021
Erosion and Sediment Control Plan Sheet 1 Project No. 239995 Number 801 Revision F	ADW Johnson	19 March 2021
Erosion and Sediment Control Plan Sheet 2 Project No. 239995 Number 802 Revision F	ADW Johnson	19 March 2021
Erosion and Sediment Control Details and Notes Project No. 239995 Number 803 Revision F	ADW Johnson	19 March 2021

Document Title	Prepared By	Dated
Environmental Impact Statement – Final	Umwelt	26 June 2019
Noise and Vibration Impact Assessment - Report No.4308/R02/Final	Umwelt	April 2019

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

3. Lapsing of Consent

- a) The Resource Recovery Facility (RRF) must cease operating 30 years from the approval date of this consent.
- b) Upon cessation of use, all structures and equipment associated with the RRF must be removed from the site and rehabilitated in accordance with the development consents for the existing quarry operating from the site (D74/73/3, 8/1995/80124/6 and 8/2007/365/4), specifically stage 5 rehabilitation works as detailed in the 'Buttai Quarry Management Plan' prepared by Daracon Pty Ltd dated February 2011.
- c) Rehabilitation works associated with the RRF must be completed within 24 months from the date the use ceases to operate.

4. Permitted Waste Types

The following waste types will only be permitted to be accepted and processed at the resource recovery facility:

Waste	Description
General solid waste (non-putrescible)	Concrete, bricks, ceramics, concrete washout, coal ash, asphalt, coal washery reject
General solid waste (non-putrescible)	Excavated natural material that meets the chemical and physical requirements of the ' <i>Excavated Natural Material Order 2014</i> '
General solid waste (non-putrescible)	Building and demolition waste including soils and excavated road material that meet CT1 levels for general solid waste in Table 1 of the EPA's ' <i>Waste Classification Guidelines 2014</i> '

5. Operational Requirements

This consent permits the following:

- The only permitted waste material collected, stored and processed is to be general solid waste (non-putrescible) as prescribed in the General Terms of Approval (GTA) and Environment Protection Licence (EPL) issued by the Environment Protection Authority (EPA).
- The maximum amount of waste permitted to be received at the premises is 100,000 tonnes per year.
- A maximum number of 120 truck movements per day (60 trucks in and 60 trucks out).
- Truck movements restricted to a maximum of 10 per hour (5 trucks in and 5 trucks out) after 3.00pm on weekdays.
- The speed of trucks along the access road to the site (from John Renshaw Drive) is limited to 40 km per hour.
- All trucks entering and leaving the premises must have their loads covered at all times, except during material inspection, loading and unloading.
- All traffic associated with the resource recovery facility is restricted to access the site from John Renshaw Drive and Old Buttai Road only (no access to the site is permitted from George Booth Drive to the south).
- All vehicles associated with the facility are to be fitted with non-tonal, broadband or smart reversing alarms.

- Waste material associated with the resource recovery facility must only be stockpiled in the designated stockpile area in accordance with the approved development plans and shall not be stockpiled elsewhere within the boundaries of the quarry.

6. Hours of Operation

Operating hours are limited to between 6.00am and 6.00pm Monday to Saturday, with no work to take place on Sundays and public holidays.

Processing machinery and equipment is only permitted to operate between 7.00am and 6.00pm from Monday to Saturday, with no machinery permitted to be used on Sundays and public holidays.

7. Stockpile Heights

Stockpile heights are not to exceed 8 metres from ground level.

8. Signage

No signage will be permitted advertising the resource recovery facility (either on or off the site).

PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

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

9. CC, PC & Notice Required

In accordance with the provisions of Section 6.6 & 6.7 of the *EP&A Act 1979* construction works approved by this consent must not commence until:

- a) A *CC* has been issued by the consent authority, Council or an accredited certifier; and
- b) A *PC* has been appointed by the person having benefit of the development consent and
- c) If Council is not the *PC*, notify Council no later than two (2) days before building work commences as to who is the appointed *PC*; and
- d) At least two (2) days before commencement of building work, the person having benefit of the development consent is to notify Council as to the intention to commence building work.

10. Bushfire Protection

The proposed weighbridge office, site office and fuel storage building are to be ember protected by enclosing all openings or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders. Details of these requirements are to be included on the plans lodged with the CC.

11. Approval of Council Local Traffic Committee

Prior to issue of the CC, approval will be required from the Council Local Traffic Committee for the installation of, or amendment to regulatory signage, line marking and/or traffic control devices. Full details are to be submitted to and approved by the Council Local Traffic Committee prior to issue of any CC and any subsequent Section 138 Roads Act approval.

12. Car Parking – Design

The provision of on-site parking shall be provided in accordance with the approved development plans listed in condition 1 of this consent.

The design of the vehicular access and off street parking facilities must comply with, but not be limited to *AS 2890.1-2004 Parking Facilities – Off-Street Car Parking*, *AS 2890.2-2002 Parking Facilities – Off-Street commercial vehicles facilities*, and *AS 2890.3-1993 Parking Facilities – Bicycle parking facilities*. Details demonstrating compliance with these Standards are to be included on the plans submitted in association with a CC application.

A design certificate satisfying these requirements is to be issued by a suitably qualified professional engineer and submitted to the Certifier prior to the issue of a CC.

13. Disabled Car Parking Spaces

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.

Plans demonstrating compliance with this requirement and the following Australian Standards are to be submitted to, and approved by, the Certifier prior to the issue of a CC.

- * *AS/NZS 2890.1:2004 Parking Facilities – Off street car parking*
- * *AS/NZS 1428.1:2009 Design for access and mobility – General requirements for access – New building work*
- * *AS/NZS 1428.4.1:2009 Design for access and mobility – Means to assist the orientation of people with vision impairment – Tactile ground surface indicators.*

14. Stormwater – Detailed Design Requirements

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.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

15. Cessnock Section 7.12 Levy Development Contributions Plan

A total monetary contribution of \$8,462.35 is to be paid to Council, pursuant to Section 7.12 of the *EP&A Act 1979*. This contribution is to be paid prior to the issue of any CC.

- i) This condition is imposed in accordance with the provisions of *Cessnock Section 7.12 Levy Contributions Plan 2017 (as amended)*. A copy of the document is available on Council's website at www.cessnock.nsw.gov.au or may be inspected at Councils' Customer Services Section, Administration Building, Vincent Street Cessnock.
- ii) The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be indexed at time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

16. Roadworks – Old Buttai Road and Unnamed Road

Prior to issue of the CC, the registered proprietors of the land shall lodge an application with Council under *Section 138* of the Roads Act for the following roadworks:

- a) Construct 7m wide sealed pavement on the unsealed sections of Old Buttai Road and the unnamed road for a total distance of approximately 1.95km (1150m of Buttai Road and 800m of the unnamed road), with chainages 1130 to CH1200 becoming 9m wide.
- b) Construct and gravel road shoulders.
- c) Place two (2) coat hot bitumen seal on road shoulders.
- d) Stabilise road verge by seeding or other appropriate methods .
- e) Construct drainage works.

17. Road Works Fees – Old Buttai Road and Unnamed Road

The applicant will be required to pay the following plan checking and inspection fees to Council:

- a) Road fees - engineering plan checking and supervision in accordance with Councils adopted fees and charges current at the time of payment.
- b) Road fees – PC supervision in accordance with Councils adopted fees and charges current at the time of payment.

Final fee amounts will be levied on accurate dimensions contained within the submitted engineering plans.

The fees shall be payable prior to the issue of a *CC / Section 138* for the Civil Works and shall be in accordance with Council's adopted fees and charges current at the time of payment.

18. WAD Agreement with TfNSW

Prior to issue of the *CC*, the applicant is to enter into either a Works Authorisation Deed (WAD) or Transport Infrastructure Contributions Deed (TIC) with TfNSW for the road works at the intersection of John Renshaw Drive and Old Buttai Road.

TfNSW will exercise its powers and functions of the road authority to undertake these road works in accordance with section 64, 71, 72 and 73 of the Roads Act (as applicable) for all works under the WAD or TIC.

19. Nest Boxes

Nest boxes must be installed if hollow bearing trees are removed, at a ratio of at least two (2) boxes per hollow. Nest boxes must be installed in mature retained trees within the boundaries of the subject land. Evidence that this has occurred must be provided to Council's Ecologist for approval prior issue of the *CC*.

20. Noise Mound

Prior to issue of the *CC*, the development plan detailing the noise mound construction (*Detail Plan: Sheet 2, Project No. 239995, Number 102, Revision F, dated 19 March 2021*) is to be approved (in writing) by an appropriately qualified acoustic consultant and is to be consistent with the recommendations of the '*Noise and Vibration Impact Assessment Report*' (No.4308/R02/Final dated April 2019).

21. Traffic Management Plan

Prior to issue of the *CC*, a Traffic Management Plan (TMP) is to be prepared and lodged with Council for approval with the following restrictions in place:

- A maximum number of 120 truck movements per day (60 trucks in and 60 trucks out).
- Truck movements restricted to a maximum of 10 per hour (5 trucks in and 5 trucks out) after 3.00pm on weekdays.

- The speed of trucks along the access road to the site (from John Renshaw Drive) is limited to 40 km per hour.
- All traffic associated with the resource recovery facility is restricted to access the site from John Renshaw Drive and Old Buttai Road only (no access to the site is permitted from George Booth Drive to the south).

PRIOR TO COMMENCEMENT OF WORKS

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

22. Construction and Traffic Management Plan

The applicant must prepare a Construction and Traffic Management Plan incorporating the following matters. The plan must be submitted to and approved by the Certifier as satisfying these matters prior to the commencement of works.

- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane, concrete pump, truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An onsite parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer.
- b) During excavation, demolition and construction phases, noise generated from the site must be controlled.
- c) All site works must comply with the work health and safety requirements of SafeWork NSW.

- d) During excavation, demolition and construction phases, toilet facilities are to be provided on site, at the rate of one (1) toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
- e) All traffic control plans must be in accordance with the *RMS* publication *Traffic Control Worksite Manual* and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of six (6) weeks prior to the proposed activity being undertaken.

23. S138 Roads Act Approvals

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, or public road reserve be required, a S138 Roads Act 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.

24. 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.

25. Soil and Water Management Plan

The applicant must prepare a Soil and Water Management Plan, being compatible with the Construction and Traffic Management Plan referred to in this Development Consent and incorporating the following matters. The plan must be submitted to and approved by the Certifier as satisfying these matters prior to the commencement of works.

- a) Minimise the area of soils exposed at any one time
- b) Conservation of top soil
- c) Identify and protect proposed stockpile locations
- d) Preserve existing vegetation. Identify revegetation technique and materials
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner

- f) Control surface water flows through the site in a manner that:
 - i) Diverts clean-runoff around disturbed areas
 - ii) Minimises slope gradient and flow distance within disturbed areas
 - iii) Ensures surface run-off occurs at non erodible velocities
 - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences
- h) Materials are not tracked onto the road by vehicles entering or leaving the site
- i) Details of drainage to protect and drain the site during works.

The requirements of the Soil and Water Management Plan shall be in place prior to the commencement of demolition works and/or construction works and shall be maintained throughout the demolition and/or construction process.

26. 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.

27. Road Works Bonds

The applicant shall pay the following:

- a) A performance and maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater. To be held by council for a period of 12 months.

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts.

The bond shall be payable prior to the issue of a *Section 138* approval.

The bond may be used to meet any costs referred to above, and on application being made to the Council by the person who provided the bond, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the bond within 6 years of the date of issue of practical completion for the development, the Council may pay the balance to the Chief Commissioner of State Revenue under the *Unclaimed Money Act 1995*.

28. Vegetation Clearing

Prior to any clearing being undertaken, the limits of clearing must be clearly demarcated with flagging tape and an inspection of trees to be removed must be undertaken by a suitably qualified and experienced ecologist to assess if any microbats, active tree hollows or active bird nests are present. Clearing works must not extend beyond the boundaries of the approved development. Evidence that this has occurred must be submitted to and approved by Council's ecologist prior to works commencing.

29. Soft-felling of Hollow Bearing/Habitat Trees

A hollow bearing/habitat tree survey must be undertaken by a fauna ecologist in the week prior to the felling of any trees. During the survey, the ecologist is to tap the tree, by banging the base of each tree with a mallet or using a similar method, to encourage any fauna to vacate. An observation period of at least 5 minutes per tree is required to observe the emergence of any fauna, and observations must be noted. All hollow bearing/habitat trees must be marked as part of the survey.

All surrounding trees that are not hollow bearing or habitat trees must be cleared at least one day prior to felling of any hollow bearing/habitat trees.

Equipment used to fell hollow bearing or habitat trees must be capable of slowly lowering the trees to the ground. A qualified fauna ecologist must be present during the felling of the trees. The fauna ecologist must have the appropriate skills and equipment to perform euthanasia if necessary. Immediately prior to felling, each hollow bearing/habitat tree should be tapped or gently shaken with the equipment followed by an observation period of at least one minute to watch for the emergence of any fauna. The tree should be tapped again, followed by a second observation period of at least one minute. If fauna appear during the observation period, the ecologist should encourage the fauna to relocate. If no fauna appear, the tree is to be lowered to the ground slowly and gently. The hollows of the felled tree should be inspected for fauna by the ecologist after it has settled.

30. Care of Native Fauna Found in Felled Trees

Any uninjured fauna should be relocated to nearby bushland. Any nocturnal fauna should be kept in a suitable cage in a shaded location until dusk, and then released into nearby bushland. If juvenile fauna are discovered in hollows after a tree is felled, they are to be taken into the care of an organisation such as the Native Animal Trust Fund.

Injured fauna should be assessed by the ecologist, and euthanised if their injuries are such that the ecologist considers that they are unlikely to survive. If injured fauna are likely to survive, they should be taken to a vet for treatment. After treatment, fauna should be taken to an organisation such as the Native Animal Trust Fund for care until they can be released.

DURING WORK

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

31. Construction Hours

Excavation and building works must be restricted to the following hours;

- Monday to Friday – 7.00am to 6.00pm
- Saturday – 8.00am to 1.00pm
- Sunday and Public Holidays – No work to take place

32. 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.

33. 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 *PC* 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.

34. 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.

35. 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.

36. Vegetation Clearing

The following measures must be implemented during vegetation clearing on the site:

- a) Clearing works must not extend beyond the boundaries of the approved development. All workers on the site must be made aware of the environmental significance of the native vegetation on site.
- b) Stockpiling, storage or mixing of materials (including soil), vehicle parking, disposal of liquids, machinery repairs or refueling must not occur within any areas of native vegetation (including trees, shrubs and ground layer plants) during any stage of the works.
- c) All clearing of native vegetation must be done under the supervision of a qualified and experienced ecologist.
- d) The tape marking the boundaries of the clearing works must remain in place until the completion of construction works.

37. Clearing of Development Footprint

During construction works all vehicles must be washed before entering the site to prevent the spread of exotic species.

PRIOR TO COMMENCEMENT OF OPERATIONS AND ISSUE OF AN OCCUPATION CERTIFICATE

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

38. Noise Mound

Prior to the commencement of operations or the issue of an OC, the noise mound is to be constructed and completed in accordance with the approved development plans and the '*Noise and Vibration Impact Assessment Report*' (No.4308/R02/Final dated April 2019). The completed work is to be approved by an appropriately qualified acoustic consultant and evidence provided to the Certifier in writing.

39. Completion of Intersection Road Works on John Renshaw Drive and Old Buttai Road

The intersection road works at John Renshaw Drive and Old Buttai Road must be completed and operational prior to the commencement of operations, or the issue of an *OC* for the Resource Recovery Facility unless otherwise agreed to by TfNSW under a WAD or TIC Deed and written authorisation has been received from TfNSW that certain works may commence prior to the issue of an *OC* in accordance with the terms of the agreement.

Evidence that this condition has been complied with is to be provided to Council prior to the commencement of operations and/or issue of an *OC*.

40. Completion of Road Works – Old Buttai Road and Unnamed Road

Prior to the issue of an *OC*, the *PC* must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Council's S138 Roads Act Approval.

Works-as-Executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a registered surveyor, together with certification by a qualified practising Civil Engineer, to verify that the works have been constructed in accordance with the approved design and relevant *AS*, must be provided to Council prior to the issue of an *OC*.

The Works-as-Executed plan(s) must show the as-built details in comparison to those shown on the plans approved with the road works permit. All relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

41. Parking

Prior to the commencement of operations and issue of the *OC*, on site car parking must be completed in accordance with the approved development plans.

42. Drainage Works

All drainage works required to be undertaken in accordance with this consent shall be completed prior to issue of an *OC* for the development.

43. Inspection for Onsite Sewage Management

Prior to the use of the premises for the purposes approved by this consent, and prior to the issue of an *OC*, a satisfactory final inspection report from the Council must be received by the *PC*, verifying the associated onsite wastewater management system has been supplied and installed in accordance with the approval under Section 68 of the *Local Government Act 1993*.

44. Bushfire Protection – Emergency Evacuation Plan

Prior to the commencement of operations or the issue of an *OC*, a 'Bushfire Emergency Management and Evacuation Plan' is to be developed in accordance with Section 6.8.4 of *Planning for Bushfire Protection 2019*. A copy of this plan is to be provided to the Local State Emergency Services for information purposes.

45. Integrated Facility Management Plan

The 'Integrated Facility Management Plan' (IFMP) that currently applies to the quarry operations on site must be amended to incorporate the resource recovery facility. Evidence of this is to be provided to the *PC* prior to the commencement of operations or the issue of an *OC*.

46. Signage – Intersection of John Renshaw Drive and Old Buttai Road

Prior to the commencement of operations or issue of an *OC*, signage will be required to be installed on John Renshaw Drive (at the intersection of Old Buttai Road) advising truck drivers to minimise noise. Details of this signage is to be lodged and approved by the Council Local Traffic Committee prior to issue of any *CC* and any subsequent Section 138 Roads Act approval.

47. Operational Environmental Management Plan

Prior to the commencement of operations or issue of an *OC*, an Operational Environmental Management Plan (OEMP) for ongoing operational actions will be required to be submitted with Council for approval. The plan is to be in accordance with the EPA's General Terms of Approval and is to include, but not limited to:

- Dust management procedures;
- Noise management procedures;
- A complaint process and procedure including a register, investigations undertaken and corrective actions implemented;
- An unexpected finds protocol detailing the appropriate management of any contaminated material entering the site.
- The permitted operational requirements of the facility detailed in condition 5 and 48 of this consent.
- Traffic management including the requirements detailed in condition 21 of this consent (Traffic Management Plan).

48. Signage – No Right Turn onto John Renshaw Drive

Prior to commencement of operations or issue of an *OC*, signage is to be erected within the site advising that all trucks exiting the site are prohibited from turning right onto John Renshaw Drive from Old Buttai Road.

49. Compliance with Conditions of Consent

Prior to the commencement of operations and issue of an *OC*, all conditions of this consent are to be complied with and the development constructed in accordance with the approved development plans.

ONGOING OPERATIONAL REQUIREMENTS

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

50. Access Roads

All access roads shall be maintained in good order for the life of the development.

51. Monitoring of Truck Movements

Records of truck movements associated with the resource recovery facility are to be provided to Council on an annual basis demonstrating compliance with the restrictions on truck movements to 120 trucks per day (60 trucks in and 60 trucks out) as detailed in condition 5 of this consent.

52. Annual Monitoring Report

The annual monitoring report for the existing quarry located on the site which is required to be lodged with Council on an annual basis for the life of the development is to be amended to incorporate the resource recovery facility and is to include (but not limited to):

- Volumes of waste material received and processed annually
- Annual truck movements
- Results of noise monitoring
- Results of air quality monitoring
- Public complaints register

53. Consultative Committee

The role of the Consultative Committee responsible for the review and progress monitoring of the existing quarry located on Lots 75 and 76 DP 755260 is to be extended to include the review and monitoring of the resource recovery facility.

54. Implementation of the OEMP

The operation of the site must be undertaken in accordance with the approved OEMP.

ADVISORY NOTES

A. 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.

B. Aboriginal Heritage

As required by the *National Parks and Wildlife Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from Heritage NSW.

Note: The *National Parks and Wildlife Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and/or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

Part 4 Modification Application - EPA Comments



Notice No. - 1595459

BUTTAI GRAVEL PTY LTD
Trading as DARACON QUARRIES
ABN 47 003 386 570 ACN 003 386 570
PO BOX 401
BERESFIELD NSW 2322

Attention: Ms Kerry Porter

Notice Number 1595459
File Number SF20/34593
Date 02-Jul-2020

Proposed Resource Recovery Facility - Buttai Gravel Pty Ltd - George Booth Drive, Buttai - CNR 865

Issued pursuant to Section 4.46 Environmental Planning and Assessment Act 1979

I refer to the development application and accompanying information provided for the proposed resource recovery facility in an existing quarry which was received by the Environment Protection Authority (EPA) on 18 March 2020.

The applicant and occupier of the site, Buttai Gravel Pty Ltd, was granted Environment Protection Licence 12829 (**Licence 12829**) on 30 June 2010 for land based extractive activities (quarry) for the premises at lots 75 and 76 DP 755260 George Booth Drive, Buttai (**the Premises**). The proposal is to include a resource recovery facility (**RRF**) on lot 75 of the Premises which will receive up to 100,000 tonnes per year of construction and demolition wastes for processing and beneficial reuse at offsite locations.

The EPA reviewed the information and provided general terms of approval (**GTAs**) under notice 1586065 on 24 April 2020, also indicating the ability to vary Licence 12829 under Part 3 of the *Protection of the Environment Operations Act 1997* (**POEO Act**) for the proposed RRF, subject to conditions.

The applicant objected to several of the conditions in the GTAs and provided further information to support their claims, in particular for the air quality impact assessment.

The EPA has considered the applicants proposals and now provides this variation to the GTAs issued on 24 April. This notice effectively modifies the GTAs and can be read as the new GTAs.

Should Council grant consent, the applicant will need to make a separate application to EPA to vary Licence 12829. Council should be aware of the conditions currently in place on Licence 12829.

Part 4 Modification Application - EPA Comments



Notice No. - 1595459

General comments on the proposal and assessments conducted:

Noise

The EPA has reviewed the proponent's response to the EPA's comments (Buttai Gravel Resource Recovery Facility Response to Submissions, dated 11 March 2020, Umwelt (Australia) Pty Ltd, reference 4308/R08). The response has still not followed the process in Fact Sheet C of the Noise Policy for Industry as advised. The proponent has compared the C-weighted noise emission from the premises with the sum of the RBL and A-weighted noise emission. This approach is not correct.

The C-weighted and A-weighted noise emission levels only should be compared. Doing this with the noise levels presented in Table 4.2 of the response, indicates there are several receivers where the difference between the C and A weighted noise levels is greater than 15 dB. However, the predicted A-weighted noise levels are generally well below the Project Noise Trigger Levels.

Therefore, although the report has not provided the correct analysis, based on the information provided, the EPA expects that exceedance of the Project Noise Trigger Levels is unlikely. The potential risk for low frequency noise has been considered in the development of the GTAs.

Air

The EPA has reviewed the response provided by the proponent and considers the response to submissions report (RTS Report) has partially addressed the issues raised in the EPA's previous advice.

While the RTS Report has provided information regarding the assumptions for the assessment of peak daily activities related to the proposed RRF, it is unclear if the impact of potential peak cumulative impacts from the combined operations within the Premises (i.e. proposed RRF and existing quarry) has been assessed.

In addition, the approach used in the assessment for the selection of representative background levels differs from the exhibited air quality impact assessment and is inconsistent with the guidance provided in the *Approved Methods for the Modelling and Assessment of Air Pollutants in NSW* (the Approved Methods for Modelling). The assessment results in the response are a less conservative assessment of the total impact of the proposal and, as such, this approach may not adequately account for potential daily variations in the background.

Considering this, and if adopting the Beresfield background data as originally assumed in the exhibited AQIA, contrary to conclusions in the assessment in the response, it is likely there will be one additional exceedance at Receptor R24 due to the proposed operations. This additional exceedance was also predicted in the exhibited AQIA. Notwithstanding this, the EPA considers the proposed RRF can operate with appropriate controls, without resulting in adverse air quality impacts.

The EPA advises that even though the proponent has not sufficiently assessed the project emissions, there is less risk of project related emissions exceeding EPA impact assessment criteria at sensitive receptors provided all mitigation measures are effectively implemented.

Waste

The applicant should approach the EPA prior to accepting any waste, providing information of the intended outputs from recovery of wastes, and seek specific resource recovery orders and exemptions for those recovered waste outputs. This is because, while not a licensing requirement, the proposal does not intend to produce outputs which meet existing general resource recovery orders and exemptions.

The applicant should be aware that the proposed RRF is a waste facility that will be liable for the waste levy; will require a weighbridge; and require additional recording and reporting in accordance with the Protection of the Environment

Part 4 Modification Application - EPA Comments



Notice No. - 1595459

(Operations) Waste Regulation 2014. In addition, the applicant will be required to operate the proposed facility in accordance with the EPA’s Standards for managing construction waste in NSW 2018.

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)

Waste	Description	Activity	Tonnes
General solid waste (non-putrescible)	Concrete, brick, ceramics, concrete washout, coal ash, asphalt, coal washery reject	Resource Recovery, Waste Storage	See below
General solid waste (non-putrescible)	Excavated Natural Material that meets the chemical and physical requirements of the “excavated natural material order 2014”	Resource Recovery, Waste Storage	See below
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): 100,000 tonnes
- A weighbridge must be installed and operational at the premises before any waste is received at the premises.

Noise

- A noise wall or bund must be constructed before any waste is received at the premises (as described in Section 6.3.1.1 of *Buttai Resource Recovery Facility Noise Impact Assessment*, dated 10 April 2019, Umwelt Pty Ltd reference: 4308/R02/Final).
- Hours of operation:
Construction work at the premises must only be conducted between Monday to Friday 7am to 6pm, and Saturday 8am to 1pm.

No construction work is to be conducted on Sundays or public holidays.

Part 4 Modification Application - EPA Comments



Notice No. - 1595459

Operating hours limited to between 6am and 6pm Monday to Saturday. No work on Sundays and Public Holidays.

Specific activities to be limited as follows:

- Processing equipment to be operated between 7am and 6pm.
- Use of non-tonal, broadband or smart reversing alarms for all vehicles.

Air

- Unsealed sections along the existing access route from the John Renshaw Drive to the project area must be sealed before any waste is received at the premises.
- The internal weighbridge access road must be sealed before any waste is received at the premises
- Trucks entering and leaving the premises must have their loads covered, except during material inspection, unloading and loading.
- Vehicle speeds shall be limited to 40 km/h on the access road and on site.

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 12829

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-865).

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

Yours sincerely

A handwritten signature in blue ink, appearing to be 'S. James', written over a dotted line.

.....
Steven James
A/Manager Regulatory Operations - Metro West
Environment Protection Authority

(by Delegation)

Part 4 Modification Application - EPA Comments



Notice No. - 1595459

Attachment A – proposed Licence 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)	Concrete, brick, ceramics, concrete washout, coal ash, asphalt, coal washery reject	Resource Recovery, Waste Storage	See below
General solid waste (non-putrescible)	Excavated Natural Material that meets the chemical and physical requirements of the “excavated natural material order 2014”	Resource Recovery, Waste Storage	See below
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

- Note: Waste received at the premises that meets the chemical and other material requirements of “The excavated natural material order 2014” is classified as general solid waste and can no longer taken to be, described as, or supplied as “excavated natural material”.
- Note: Waste received at the premises that is described as virgin excavated natural material is classified as general solid waste and can no longer taken to be, described as, or supplied as virgin excavated natural material.

Maximum amount of waste permitted to be received at the premises per year: 100,000 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 8 metres from ground level.

Part 4 Modification Application - EPA Comments



Notice No. - 1595459

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 8 metres;
- and are visible to all working areas around the stockpile or storage area.

Washing out of concrete trucks shall be done only within a bunded and roofed bay within the waste receival area of the premises.

Lx Potentially offensive odour

Lx 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.

Lx Noise

Noise emitted from the premises should be limited to the following noise levels at locations as follows:

Location	Noise limit		
	Day		Night
	Leq, 15min dB(A)	Leq, 15min dB(A)	Lmax dB(A)
All residential receivers	40	35	52

Note 1: Day is defined as 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays. Night is 10pm to 7am Monday to Saturday and 10pm to 8am Sundays

Note 2: The noise limits apply under the standard and noise-enhancing meteorological conditions specified in Table D1 of the Noise Policy for Industry (EPA, 2017).

Hours of operation

Operating hours limited to between 6am and 6pm Monday to Saturday. No work on Sundays and Public Holidays.

Specific activities to be limited as follows:

- Processing equipment to be operated between 7am and 6pm.

Noise management measures

The following noise management measures are to be incorporated into the premises:

- Construction maintenance of a noise wall or bund (described in Section 6.3.1.1 of *Buttai Resource Recovery Facility Noise Impact Assessment*, dated 10 April 2019, Umwelt Pty Ltd reference: 4308/R02/Final). The construction of the barrier should be completed prior to operations commencing.
- Use of non-tonal, broadband or smart reversing alarms for all vehicles.

Part 4 Modification Application - EPA Comments



Notice No. - 1595459

Noise compliance monitoring

Noise compliance monitoring to be undertaken within the first three months of operation of the premises to confirm noise emissions from plant and access road and to confirm the effectiveness of noise management measures.

Attended noise monitoring should be undertaken at the nearest most-affected residential receivers using an appropriate method from Section 7 of the Noise Policy for Industry (NPfI). Monitoring must include an analysis of modifying factors in accordance with Fact Sheet C of the NPfI, especially low frequency noise.

Where noise emissions are assessed to be above the noise limits, all reasonable and feasible mitigation measures are to be applied to reduce noise levels.

Construction noise

Construction to be limited to the following days and times:

- Monday to Friday 7am to 6pm
- Saturday 8am to 1pm
- No work Sundays or Public Holidays

O2. 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.

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

The licensee must ensure that no material including sediment is tracked from the premises.

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

Watering must be used as a means of dust suppression for the following activities and at the following points:

- During all crushing and screening operations
- Material loading and unloading operations
- Material hauling within the premises (i.e. road watering)
- Material delivery to and from the premises (i.e. road watering)
- At all material transferring points
- At all stockpiles

O3. Stormwater/sediment control - Construction Phase

An Erosion and Sediment Control Plan (ESCP) or Soil and Water Management Plan (SWMP) must be prepared and implemented prior to construction and receipt of waste at the Premises.

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

Part 4 Modification Application - EPA Comments



Notice No. - 1595459

O4. Processes and management

Each type of waste stored on site for recovery/recycling must be stockpiled separately.

There must be no burning or incineration of waste at the premises.

Clean stormwater must be diverted around areas of the site where waste is stored.

Note: The licensee is required to manage waste and maintain the premises in accordance with the EPA's "Standards for managing construction waste in NSW" 2019.

O5. Emergency Management

The licensee must prepare, maintain and implement as necessary, a current Pollution Incident Response Management Plan (PIRMP) for the premises.

Note: The licensee must develop their PIRMP in accordance with the requirements in Part 5.7A of the Protection of the Environment Operations Act 1997 and its Regulations.

R4. Reporting

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

1. Time and date when the fire was deliberately started or reported;
2. Whether the fire was authorised by the licensee, and, if not, the circumstances which ignited the fire;
3. The time and date that the fire ceased and whether it burnt out or was extinguished;
4. The location of the fire (including waste type or stockpile location);
5. Prevailing weather conditions;
6. Observations made in regard to smoke direction and dispersion;
7. The amount of waste that was combusted;
8. Action taken to extinguish the fire; and
9. How leachate generated from extinguishing the fire was managed.

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

Special Conditions

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) prior to waste 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

Part 4 Modification Application - EPA Comments



Notice No. - 1595459

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.

E2. Environmental Obligations of Licensee

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

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

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

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

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