

Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, under delegation executed on 9 March 2020, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Chris Ritchie
Director
Industry Assessments

Sydney 15 May 2020

File: EF19/20434

SCHEDULE 1

Development consent:	SSD 5300
Applicant:	Kembla Grange Recycling Pty Ltd
Consent Authority:	Minister for Planning and Public Spaces
Development:	Increasing the capacity of the existing construction and demolition waste and commercial and industrial waste resource recovery facility
Date of Consent:	Granted by the Planning Assessment Commission on 7 March 2016
The Land:	Lot 10 DP 878167, 50 Wyllie Rd, Kembla Grange
Modification:	SSD 5300 MOD 2 - Regularising constructed elements including rainwater and firewater storage tanks, a pump room and a fixed picking station as well as the installation of new indoor processing plant and fire safety measures

SCHEDULE 2

The consent is modified as follows:

1. Delete the definitions for “Applicant”, “Department”, “Department of Primary Industry”, “Minister”, “OEH” and insert the following definitions in alphabetical order:

Applicant	Kembla Grange Recycling Pty Ltd or any other person or persons who rely on this consent to carry out the Development that is subject to this consent
Department	NSW Department of Planning, Industry and Environment, or its successors in title
EES	NSW Environment, Energy and Science division of the Department of Planning, Industry and Environment
Minister	Minister for Planning and Public Spaces
2. Insert the following definitions in alphabetical order:

FRNSW	Fire and Rescue NSW
MOD 2	The modification as described in the Statement of Environmental Effects titled, “Section S4.55(1a) Development Modification – SSD 5300 Kembla Grange Resource Recovery Facility Statement of Environmental Effects”, prepared by Jackson Environment and Planning Pty Ltd and dated 23 November 2018 and as updated in versions of this report dated 26 June 2019, 22 February 2020 and the letter titled <i>Response to Agency Comments on SSD 5300 Mod 2 – Kembla Grange Resource Recovery Facility</i> , prepared by Jackson Environment and Planning and dated 21 February 2020
NRAR	Natural Resource Access Regulator
Reporting Period	March 15 to March 14
3. Delete all references to “shall” and replace with “must”
4. Delete all references to “OEH” and replace with “EES”

In Schedule 2: Part A Administrative Conditions

5. In Condition A2 delete the “and” at the end of clause d), insert the word “and” at the end of clause e) and insert a new clause f) immediately after clause e) as follows:

f) the modification application SSD 5300 MOD 2 and supporting documentation.
6. Replace Condition A6 with the following Condition A6:

A6 The Applicant must not receive or process on the site more than 230,000 tonnes per year of waste, subject to Condition A8.
Note: The reporting year is March 15 to March 14 to align with the EPL reporting period.
7. Insert a new heading and delete and replace Condition A9 with the following:

STRUCTURAL ADEQUACY

- A9 All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the development, must be constructed in accordance with the relevant requirements of the BCA.
- Note:*
- Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
 - Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

8. Insert the following Condition A9A after Condition A9:

A9A. Within 60 days from date of approval of MOD 2, the Applicant must provide the Planning Secretary with copies of all necessary building information certificates from Council for all structures and items listed in Table A, in accordance with Section 6.26 of the EP&A Act.

Table A: Alterations and Additions to Structures

Structure	Location
Picking Station, screens and crushers connected to partially enclosed storage bays and associated processing equipment	South eastern corner of the site as shown in Appendix A, Site Plan 1
Firewater storage tanks and pump room	Western side of the site as shown in Appendix A, Site Plan 1
Rainwater storage tanks	Northern side of the site located behind existing shed as shown in Appendix A, Site Plan 1

Note: If a structure or item in Table A is considered to be exempt development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and Council agrees then a building information certificate may not be required.

In Schedule 2: Part B Environmental Performance Conditions

9. Replace Condition B5 with the following Condition B5:

B5 Prior to re-commencing the operation of the fixed picking station and prior to the operation of the indoor processing plant as described in MOD 2, the Applicant must update its Water Management Plan to the satisfaction of the Secretary. The plan must:

- be prepared by a suitability qualified and experienced person(s) in consultation with the EPA and the Department of Planning, Industry and Environment (Water) and Natural Resources Access Regulator;
- include a detailed site water balance;
- include a mass soil balance;
- include the details of the:
 - retaining walls and soil cut and fill;
 - expected groundwater interception and extraction;
 - all-weather access to the site;
 - clean water runoff areas that discharge without treatment (i.e. car parks and roofs);
 - the Water Management System for the site (see Condition B7);
 - erosion and sediment controls (see Condition B8);
 - bunding (see Condition B9); and
 - water management, monitoring, testing and incident response arrangements.

10. Insert the following Condition B24A after Condition B24:

B24A The Applicant must prepare and submit a noise verification report to the EPA and the Planning Secretary within 3 months from re-commencing the operation of the fixed picking station and prior to the operation of the indoor processing plant (as described in MOD 2). The report must be prepared by a suitably qualified and experienced acoustic consultant and include:

- an analysis of compliance with noise limits specified in Condition B20;
- an outline of management actions to be taken to mitigate any exceedances in noise limits; and
- a description of contingency measures in the event management actions are not effective in reducing noise levels to an acceptable.

11. Insert the following Conditions B25A and B25B after Condition B25:

B25A Prior to re-commencing the operation of the fixed picking station and prior to the operation of the indoor processing plant, as described in MOD 2, the Applicant must install and implement the fire safety measures described in the *Kembla Grange Fire System Upgrade Review* dated 22 March 2020 prepared by EFWF Consulting. Evidence of the installation must be provided in writing to the Planning Secretary.

12. Insert the following Condition B25B after Condition B25A:

B25B Prior to re-commencing the operation of the fixed picking station and prior to the operation of the indoor processing plant, as described in MOD 2, the Applicant must prepare and implement an Emergency Management Plan to the satisfaction of the Secretary. The plan must be:

- a) prepared in consultation with FRNSW by a suitably qualified and experienced expert; and
- b) in accordance with AS 3745-2010 *Planning for emergencies in Facilities*.

13. In Condition B26 delete the “and” at the end of clause b), insert the word “and” at the end of clause c) and insert the following Condition B26d) immediately after Condition B26c) as follows:

B26d) maintain provision for the containment of fire water run-off based on the worst possible fire scenario for the site.

In Schedule 2: Part C Environmental Management, Reporting and Auditing

14. Replace Condition C11 with the following Condition C11:

C11 Within 60 days of the end of the reporting period specified in A6, or otherwise agreed by the Planning Secretary, the Applicant must review the environmental performance of the Development. This review must:

- a) describe the Development that was carried out in the previous reporting year, and the Development that is proposed to be carried out over the next year;
- b) include a comprehensive review of the monitoring results and complaints records of the Development over the previous reporting year, which includes a comparison of the results against the:
 - (i) the relevant statutory requirements, limits or performance measures/criteria;
 - (ii) requirements of any plan or program required under this consent;
 - (iii) the monitoring results of previous years; and
 - (iv) the relevant predictions in the EIS;
- c) identify any non-compliance over the last year, and describe what actions were (or are being) taken to ensure compliance;
- d) identify any trends in the monitoring data over the life of the Development;
- e) identify any discrepancies between the predicted and actual impacts of the Development, and analyse the potential cause of any significant discrepancies; and
- f) describe what measures will be implemented over the next year to improve the environmental performance of the Development.

15. Replace Condition C9 and C10 with the following Condition C9 and C10:

C9 Within 12 months of the approval of the modification and every three years thereafter, unless the Planning Secretary directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the Development. The Audit must:

- a) be led and conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Planning Secretary;
- b) be carried out in consultation with the relevant agencies;
- c) assess the environmental performance of the development and assess whether it is complying with the requirements in this consent, and any strategy, plan or program required under this consent;
- d) review the adequacy of any approved strategy, plan or program required under this consent; and
- e) recommend measures or actions to improve the environmental performance of the development, and any strategy, plan or program required under this consent.

C10 Within three months of commissioning an Independent Environmental Audit, or within another timeframe agreed by the Planning Secretary, a copy of the audit report must be submitted to the Planning Secretary and any other NSW agency that requests it, together with a response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations. The recommendations must be implemented to the satisfaction of the Planning Secretary.

Note: The audit team must be led by a suitably qualified auditor and include experts in any fields specified by the Planning Secretary.

16. Insert new heading and the following Condition C10A:

Monitoring and Environmental Audits

C10A. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification and independent environmental auditing.

Note: *For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.*

In Appendix A

17. Appendix A is amended by the deletion of the following drawings:

Name	Plan Number	Revision
Site Plan	C10	Q
Site Plan Proposed Layout	C27	E
Site Plan - Usage Areas	C29	E
Operation Plan - layout Version 1	C34	C

and the insertion of the following drawings:

DO NOT SCALE



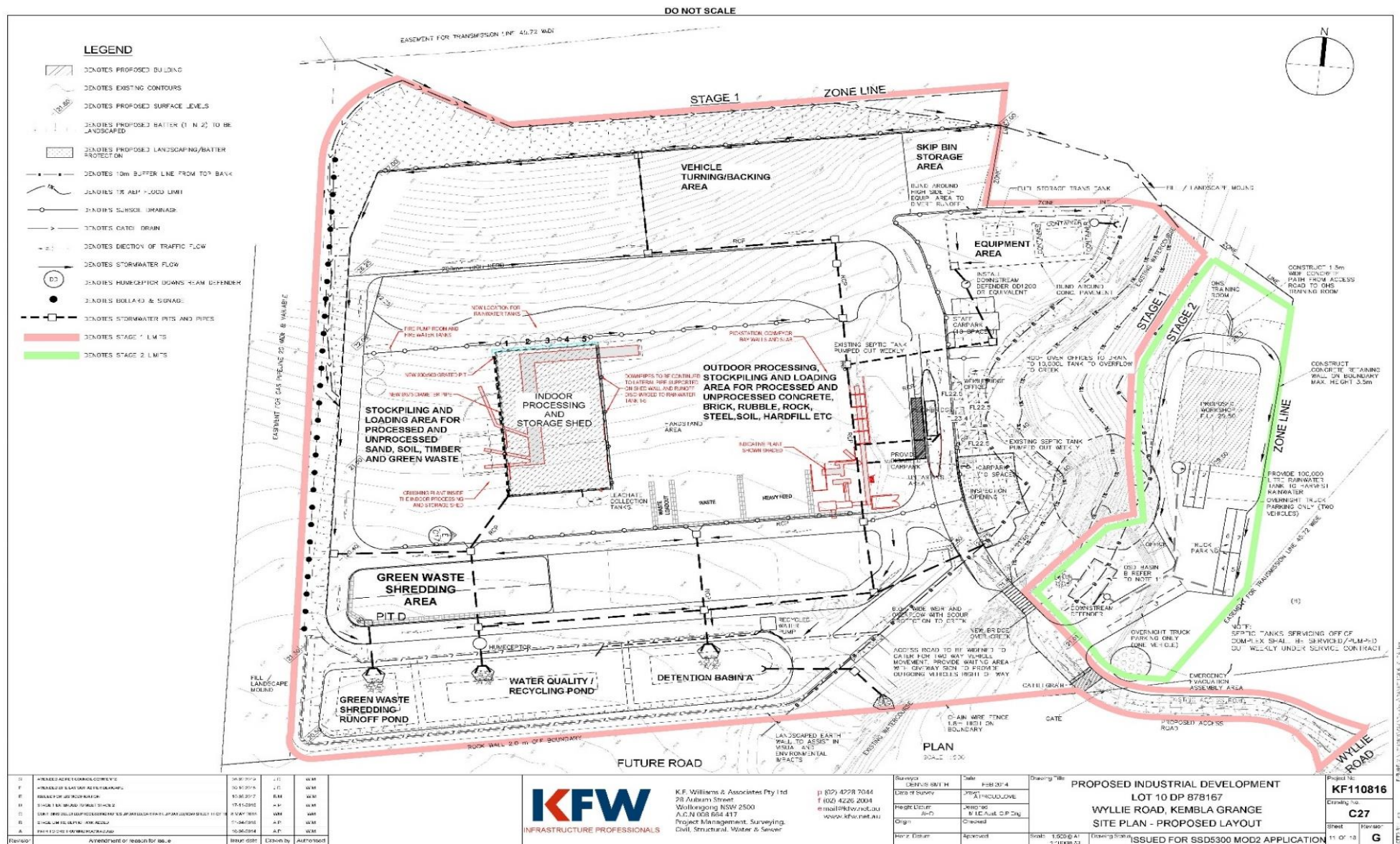


Figure 2| Site Plan – Proposed Layout



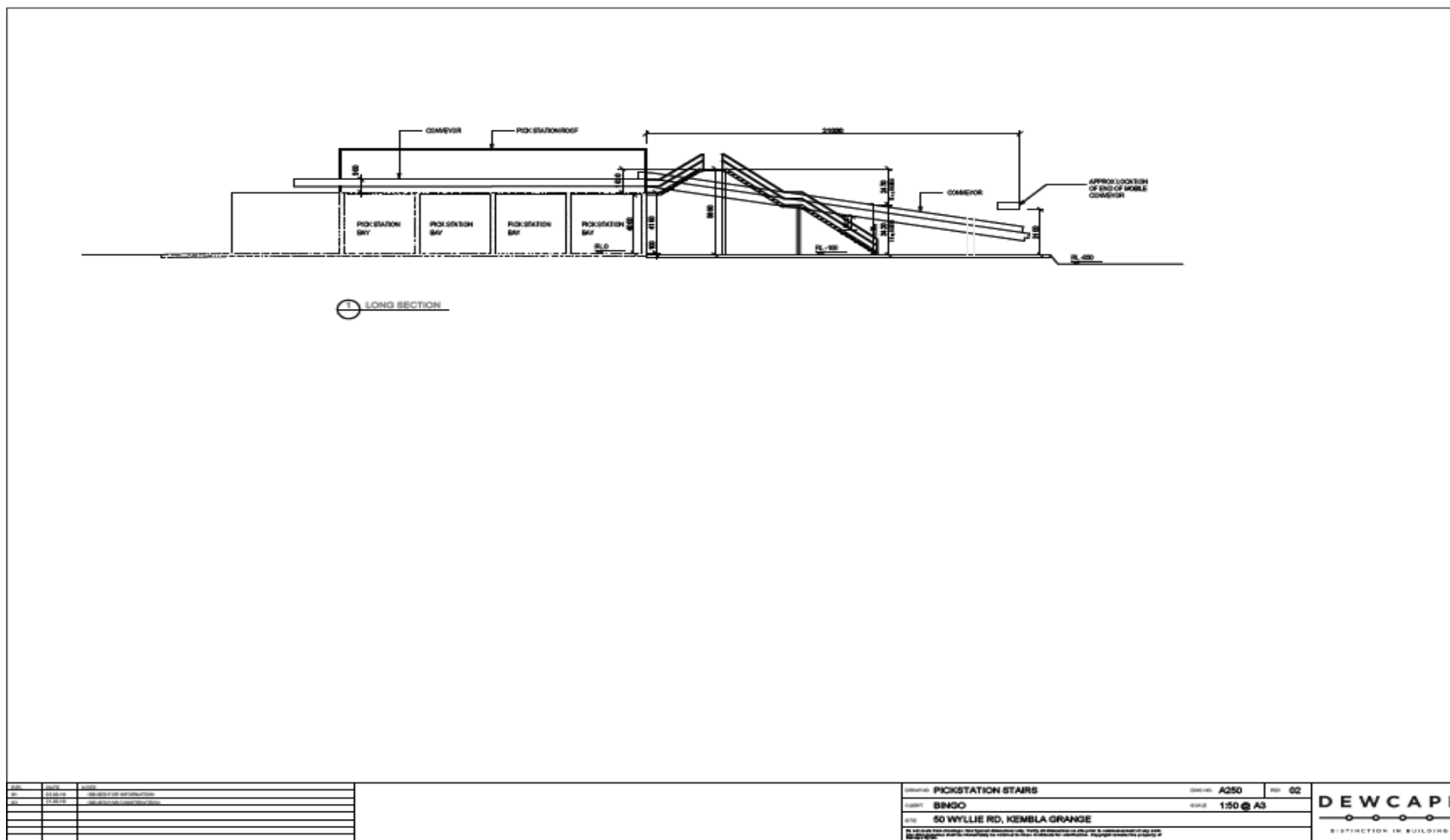


Figure 7| Pickstation Stairs

**End of modification
(SSD 5300 MOD 2)**