



11 September 2023

CENTRAL WASTE PLANT PTY LTD
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Level 3, 175 Scott St
NEWCASTLE NSW 2300

Application to Modify Development Consent Notice of Determination

Pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 and Clause 122 of the Environmental Planning and Assessment Regulation 2000.

Development Application No: DA/430/2021/A
Property Address: Lot 2401 DP 715257, 3A Pennant Street, CARDIFF NSW 2285
Original Proposal: Waste Or Resource Transfer Station - Modification
Modification sought: To accept special waste (tyres)
Determination Status:
Determination Date:
Consent to operate from:
Consent to lapse on:

Conditions of Consent

(Approved subject to the conditions specified in this notice and in accordance with the stamped approved plans.)

Reason for the Imposition of Conditions

The reason for the imposition of the following conditions shall ensure, to Council's satisfaction, the objects of the *Environmental Planning and Assessment Act 1979* (as amended) are achieved:

To encourage:

- a) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, cities, towns, and villages for the purpose of promoting the social and economic welfare of the community and a better environment;

- i. The promotion and co-ordination of the orderly and economic use of development of land;
 - ii. The protection, provision, and co-ordination of communication and utility services;
 - iii. The provision of land for public purposes;
 - iv. The provision and co-ordination of community services and facilities;
 - v. The protection of the environment, including the protection and conservation of native animals and plants including threatened species, populations, and ecological communities and their habitats;
 - vi. Ecologically Sustainable Development; and
 - vii. The provision and maintenance of affordable housing.
- b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State.
 - c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.

Administrative Conditions

1. Prescribed Conditions

- a) The work shall be carried out in accordance with the requirements of the *Building Code of Australia*.
- b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- c) A sign shall be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - i. showing the name, address and telephone number of the Certifying Authority for the work, and
 - ii. 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
 - iii. stating that unauthorised entry to the work site is prohibited.

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

- d) Residential building work within the meaning of the *Home Building Act 1989* shall not be carried out unless the Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- i. in the case of work for which a principal contractor is required to be appointed:
 - a. the name and licence number of the principal contractor, and
 - b. the name of the insurer by which the work is insured under Part 6 of that Act,
 - ii. in the case of work to be done by an owner-builder:
 - a. the name of the owner-builder, and
 - b. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so the information notified under (d) becomes out of date, further work must not be carried out unless the Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

2. Approved Documentation

The development consent incorporates this schedule of conditions and the plans and documents referenced and stamped as follows:

a) Plans Reference:

Plans prepared by: EMM; Project Number. H200519			
Name of Plan	Drawing Number	Issue	Date
21m AV on site manoeuvrability (sheet 1)	EMM-001	3	03/03/21
21m AV on site manoeuvrability (sheet 2)	EMM-001	3	03/03/21

Plans prepared by: Scope Surveying; Project Number. 1476-024			
Name of Plan	Drawing Number	Issue	Date
Detail survey plan	1 of 3	2	19-05-21
Detail survey plan	2 of 3	2	19-05-21
Proposed car park layout	3 of 3	3	8-07-21

Modification A

Plans prepared by: Quantify Consulting; Project Number. 3A Pennant Street, Cardiff
NSW 2285

Name of Plan	Drawing Number	Issue	Date
Tyre Storage Floor Plan	TS-01	B	27.06.23

b) Document Reference: (Modification A)

Document	Reference	Author	Date
Environmental Impact Statement	Cardiff Waste Transfer Station	EMM	February 2021
Air quality impact assessment	Cardiff Waste Transfer Station	EMM	February 2021
Noise impact assessment	Cardiff Waste Transfer Station	EMM	February 2021
Surface water assessment	Cardiff Waste Transfer Station	EMM	February 2021
Traffic impact assessment	Cardiff Waste Transfer Station	EMM	February 2021
Fire Safety assessment report	Proposed Waste Transfer Station, 3A Pennant Street Cardiff	Steve Watson & Partners	January 2021
Additional information	3A Pennant Street Cardiff	EMM	11 June 2021
Soils handling procedure	H200598	EMM	23 August 2023

Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- i. Any amendments made by Council on the approved plans or documents;
- ii. Any notes, markings, or stamps on approved plans or documents, and
- iii. Any conditions contained in this consent.

General Conditions

The person having the benefit of the consent shall comply with each of the following conditions.

3. Restrictions on development (Modification A)

The development is approved as a waste or resource transfer station.

This consent approves a maximum annual throughput of 99,800 Tonnes of waste, and a maximum onsite capacity of 10,000 Tonnes at any time.

Except as provided for below, the development shall accept only waste classified as General Solid Waste (non-putrescible).

Long-term storage of waste at the site is not permitted.

The development is permitted to accept waste classified as Special Waste (Tyres). A maximum of 50 Tonnes of tyres may be stockpiled onsite at any time. A maximum of 500 Tonnes of tyre may be accepted in any calendar year. These restrictions are included in (not in addition to) the total maximums for all waste types described above.

Tyres may be stockpiled for such time as takes to accumulate the maximum permitted stockpile prior to transfer offsite.

General Terms of Approval and Concurrence Requirements

4. General Terms of Approval

The following approval bodies have given general terms of approval in relation to the development:

- Environmental Protection Authority (notice number 1609895)

Fees, Charges and Contributions

5. Contribution Toward Provision or Improvement of Amenities or Services

- (a) In accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Lake Macquarie City Council Development Contributions Plan 2015 - Glendale Contributions Catchment, a road haulage monetary contribution shall be paid to Council annually.

The amount payable will be calculated in accordance section 4.2.4 'Calculation of Haulage Contribution Rate' within the Contributions Plan, following submission of weighbridge records for the relevant 12-month period detailing the truck classifications, truck numbers, total weight transported, and whether the truck was transporting waste in or out of the site.

Once the contribution payable has achieved a consistent figure ($\pm 5\%$) for three consecutive years, the parties may agree to apply the same figure (subject to indexation) for future years without requiring the annual recalculation. Despite this, either party may require a recalculation based on actual annual data at the time the contribution falls due.

- (b) From the date this determination is made until payment, the amounts of the contributions (Contributions Schedule and Road Haulage) payable under the preceding clauses will be indexed and adjusted at the close of business on:

14 August,
14 November,
14 February, and
14 May;

in each year in accordance with indexation provisions within the Contributions Plan. The first date for indexation will occur on the first abovementioned date after the Notice of Determination becomes effective.

- (c) The contributions payable will be the amounts last indexed and adjusted in accordance with Clause (b) above. However, if no amount has been indexed and adjusted because the first date for indexation and adjustment has not arrived, the contributions payable shall be those in clause (a) above.
- (d) The contributions shall be paid to Council as follows:
- Road Haulage contribution shall be paid to Council 12 months from the issue of the first occupation certificate, and annually on that date thereafter.

It is the responsibility of the person having the benefit of this development consent to ensure that the Road Haulage monetary contributions have been paid to Council in accordance with the above provisions.

Conditions to be satisfied prior to the issue of the Construction Certificate

The person having the benefit of the consent shall comply with each of the following conditions prior to the issue of a Construction Certificate.

Any documentation required to be submitted for the Construction Certificate shall be submitted to the Certifying Authority unless otherwise specified.

6. Construction Certificate

Prior to the commencement of building work or subdivision work, a Construction Certificate shall be obtained.

Note: If the Construction Certificate is issued by a Certifying Authority that is not Council it shall be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval. (Clause 142(2) *Environmental Protection Authority Regulation 2000*).

7. Car Parking and Allocation of Spaces

Plans demonstrating a total of 13 car parking spaces (inclusive of one accessible space) in accordance with *Australian Standard AS/NZS 2890* shall be submitted.

8. Clauses 62 and 64 Consideration (formerly clause 94) (Modification A)

Pursuant to Clauses 62 and 64 of the *Environmental Planning and Assessment Regulation 2000*, the existing building shall be brought into conformity with *the Building Code of Australia* (BCA).

The following work shall be undertaken and details shall be included in the application for a Construction Certificate for the building.

- a) A bund shall be constructed to contain a minimum of 2 hours fire suppression water within the building
- b) A sprinkler system shall be installed which complies with AS2118.1.
- c) Smoke and heat vents shall be installed which complies with specification E2.2c of the BCA (Volume 1)

Conditions to be satisfied during demolition and construction works

The person having the benefit of the consent shall comply with each of the following conditions during demolition and construction works.

9. Noise - Construction Sites

The operating noise level of construction site operations, including machinery, plant and equipment when measured at any affected premises, shall be evaluated and comply with the requirements of the NSW Office of Environment and Heritage publication *Interim Construction Noise Guideline July 2009*.

Approved Construction Times

- a) The approved hours for construction of this development are –
Monday to Friday - 7.00am to 6.00pm.
Saturday – 8am to 1pm.

- b) No construction work shall take place on Sundays or Public Holidays.

Construction Periods in Excess of 26 Weeks

- a) If the construction period is in excess of 26 weeks, a Noise Management Plan shall be provided to Council prior to the issue of the first construction certificate. Such plan shall be prepared with the assistance of a suitably qualified acoustic engineer, indicating whether the use of machinery, plant and equipment during those operations can be completed without causing offensive noise (as defined in the *Protection of the Environment Operations Act 1997*) in the neighbouring area.

The Noise Management Plan shall be complied with at all times during the construction period and shall identify any mitigation measures to control noise, noise monitoring techniques and reporting methods, likely potential impacts from noise and a complaints handling system.

- b) Operational times may be amended with the written advice of Council's General Manager or delegate.

10. Unobstructed Footpath Access

The person having the benefit of the consent shall maintain unobstructed footpath access within the public road reserve at all times. Building materials shall not be placed or stored within the road reserve.

In the case of sites where it is not possible to keep the footpath or road reserve clear during construction works written approval from Council shall be obtained prior to any closing of the road reserve or footpath area. The closure shall take place in accordance with Council's written approval. The area shall be signposted and such signposting be maintained in a way that ensures public safety at all times.

11. Building Waste

An enclosure or bin shall be provided for the storage of building waste for the term of the construction.

The enclosure or bin shall be regularly cleaned to ensure proper containment of the building wastes generated on the site.

Conditions to be satisfied prior to issue of an Occupation Certificate

The person having the benefit of the consent shall comply with each of the following conditions prior to the issue of the Occupation Certificate, Interim or Final, as stated in each condition.

12. Occupation Certificate

The development shall not be occupied or used prior to the issuing of an Occupation Certificate, whether partial or full, by the Certifying Authority.

Where a partial Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

13. Commencement of the Use of the Land

The approved use of the land shall not commence until all relevant conditions of this consent have been complied with and an Occupation Certificate has been issued.

Where a partial Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

14. Bicycle Parking and End of Trip Facilities for Employees

Secure bicycle parking/storage shall be provided to accommodate a minimum of 2 bicycles on the site.

The installation and dimensions of the bicycle parking/storage shall be in accordance with the Austroads *Cycling Aspects of Austroads Guides* and *Australian Standard AS2890.3:1993*.

Note: secure bicycle parking may include a rail or a bike locker to which the bicycle is locked, or a space normally accessible only to employees and/or under surveillance by an employee to minimise the risk of theft.

15. Noise – Ongoing Operation of Machinery, Plant and Equipment

Certification from a suitably qualified acoustic consultant shall be submitted prior to the issue of an Occupation Certificate, whether partial or full, demonstrating the Laeq (15 minute) operating noise level of machinery, plant, equipment, or any other operational noise source, when measured at the boundary of another premises, complies with either the amenity or intrusiveness criteria calculated in accordance with the NSW Environment Protection Authority *Noise Policy for Industry 2017*.

16. Car Parking

All car parking spaces, line marking and signage shall be completed prior to the issue of an Occupation Certificate.

17. Fix Damage Caused by Construction Works

Any damage to a public road or associated structures caused as a consequence of the construction works shall be made good to the satisfaction of Council.

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter in accordance with Council's standards.

These works shall be undertaken prior to the issue of the Final Occupation Certificate.

18. Traffic Management Plan

A Traffic Management Plan shall be submitted to and approved by Council. The plan shall include a driver code of conduct. Council, Transport for NSW, principal contractors and relevant stakeholders shall be consulted during preparation of the plan.

19. Bunded Firefighting Water Containment Areas

The bunding to contain firefighting water shall be constructed in accordance with the NSW Environment Protection Authority manual *Bunding and Spill Management*.

20. Emissions management

A fog misting system to control dust emissions shall be installed at the entry to the sheds.

All stormwater pits within the premises shall be fitted with screens to capture gross pollutants.

Operational Conditions

The person having the benefit of the consent shall comply with each of the following conditions during the operation of the development.

21. Landscape Works

All landscaped areas shall be permanently maintained in good condition in accordance with the adopted *Development Control Plan 2014 Guidelines – Landscape Design Guidelines*.

22. Lighting

Any lighting shall be installed to ensure minimal glare and light spill onto adjoining properties or roadways. Lighting shall comply with *Australian Standard AS4282-1997*.

23. External Storage of Products

The external storage or display of any products on the site is not permitted.

24. Hours of Operation

Following commencement of occupation, the premises may operate or trade 24 hours on any day.

25. Noise - Sleep Arousal

The L1 (one minute) operating noise level during night time hours of the premises, when measured at the reasonably most-affected point on or within the residential property boundary, shall comply with the NSW Environment Protection Authority (EPA) sleep disturbance criteria, calculated in accordance with the NSW EPA Noise Policy for Industry 2017.

26. Emissions

There shall be no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*, vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the development.

Air quality

A fog misting system shall be operated at any time work is occurring.

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

The premises must be maintained in a condition which prevents the emission of dust from the premises.

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

Water quality

Liquids applied or spilled within the sorting shed shall be contained within the shed and not drain to the external stormwater system.

Screens on stormwater grates must be cleaned and maintained in good working order to allow effective drainage of stormwater.

Complaints

A register shall be kept of any complaints made relating to emissions. The register shall record:

- 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 including a description of the odour and the location where the odour was detected.
- The meteorological conditions at the time the odour was reported.
- The action taken in relation to the complaint, including any follow-up contact with the complainant.
- If no action was taken, the reason why no action was taken.

The register shall be made available for inspection by Council or the Environmental Protection Authority on request.

27. Noise – Ongoing Operation of Machinery, Plant and Equipment

The Laeq (15 minute) operating noise level of machinery, plant, equipment, or any other operational noise source, when measured at the boundary of another premises, shall comply with either the amenity or intrusiveness criteria calculated in accordance with the NSW Environment Protection Authority *Noise Policy for Industry 2017*.

For assessing amenity criteria, the area shall be categorised in accordance with the guidelines outlined in Chapter 2 of that Policy.

28. Acoustic Certification

At 90 days of operation a suitably qualified acoustic consultant shall test, measure and certify the development is operating, at that time, in accordance with the approved Acoustic Report. Certification shall be submitted to Council.

29. Screening of waste (Modification A)

Waste being brought to the site shall be screened for waste classification prior to acceptance.

Any loads containing waste not conforming to the category "General Solid Waste (non-putrescible)" or "Special Waste (Tyres)" as defined by the NSW Environment Protection Authority Waste Classification Guidelines – Part 1: Classification of Waste shall be rejected and shall not be processed through this facility.

30. Certification of operational air quality

Six months from the commencement of operations, a report prepared by a suitably qualified professional shall be submitted to Council certifying the operation of the facility is meeting the environmental impact measures modelled for air quality at surrounding industrial and residential receptors.

31. Limitation on the vehicles and routes used in the development

The application has been approved on the following basis:

- The largest vehicle used by the development is a 21m articulated truck.
- Vehicles operated by the site operator shall utilise the western route via Pennant Street and Munibung Road to Lake Road during peak periods.

Right of Appeal

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Division 8.3 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court.

Note: The Environmental Planning and Assessment Act 1979 does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development) either unconditionally or subject to conditions.

Right of Review

Section 8.2 and 8.3 of the Environmental Planning and Assessment Act 1979 provides the applicant may request the Council to review the determination.

Note: A request to review the determination of a development application pursuant to Section 8.2 and 8.3 of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:

- (a) A determination to issue or refuse to issue a complying development certificate, or
- (b) A determination in respect of designated development, or
- (c) A determination in respect of integrated development, or
- (d) A determination made by the Council under Division 4.6 in respect of an application by the Crown.

Planning Assessment Commission

The Planning Assessment Commission has not conducted a public hearing in respect of this application.

Advisory Notes:

Hunter Water Requirements

The owner is required to comply with the requirements of the Hunter Water Act 1991, relevant to the development. If you require further information, please contact Hunter Water on 1300 657 657.

Should you require further information, please contact the undersigned on 4921 0025 or by e-mail on gkeech@lakemac.nsw.gov.au.

Yours faithfully



Geoffrey Keech
Senior Development Planner
Development Assessment and Certification