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|---------------------------------|--|
| <b>DATE OF DETERMINATION</b>    | 25 September 2023  |
| <b>DATE OF PANEL DECISION</b>   | 25 September 2023  |
| <b>PANEL MEMBERS</b>            | Alison McCabe (Chair), Tony McNamara, Roberta Ryan and Jason Pauling |
| <b>APOLOGIES</b>                | Nil  |
| <b>DECLARATIONS OF INTEREST</b> | Nil  |

Papers circulated electronically on 13 September 2023.

#### **MATTER DETERMINED**

PPSHCC-196 – Lake Macquarie - DA/430/2021/A – 3A Pennant Street, Cardiff 2285 – Waste and Resource Management Facility – modification (as described in Schedule 1).

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel has had the benefit of a briefing from Council and the applicant.

The Waste and Resource Management Facility was originally approved by the Panel on 27 July 2021. This application seeks to modify that consent to:

- (i) store up to 500T per annum of tyres (classified as Special Waste) with a maximum of 50T present at any one time for consolidation and transfer off site; and
- (ii) accept soils classified as General Solid Waste (non-putrescible).

The Environmental Protection Authority (EPA) have advised that they are satisfied with the proposal and note that the existing EPL will need to be amended.

The Panel has had regard to the degree of change proposed and is satisfied that the proposal as modified meets the substantially the same development test under section 4.55 (2) (a).

The Panel notes that additional fire safety measures are recommended given the nature of the Special Waste (tyres). Council's memo of 19 September 2023 addresses the requirement for a specific condition in this regard.

Given the context and location of the site, the Panel is satisfied that any impacts arising from the development can be managed and mitigated.

The Panel is satisfied that the proposed modification is suitable for the site and will not result in any unreasonable impacts.

#### **Development application**

The Panel determined to approve the modification to the development application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979* subject to the modifications to the conditions attached at Schedule 2.

The decision was unanimous.

## REASONS FOR THE DECISION

The Panel determined to approve the modification to the development application for the following reasons:

1. The proposed development as modified is substantially the same development when compared against the development as approved.
2. The proposed changes to the development do not result in any unreasonable impacts.





## CONDITIONS

The modification to the development application was approved subject to the changes to conditions outlined at Schedule 2.

Condition 8A was added to address fire safety requirements in addition to those changes shown in the attachment to the Council report.

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition.

| PANEL MEMBERS  |  |
|--|--|
| <br>Alison McCabe (Chair) | <br>Roberta Ryan    |
| <br>Tony McNamara       | <br>Jason Pauling |

| SCHEDULE 1 |   |  |
|------------|---|--|
| 1          | PANEL REF – LGA – DA NO.                              | PPSHCC-196 – Lake Macquarie – DA/430/2021/A  |
| 2          | PROPOSED DEVELOPMENT                                  | Waste and Resource Management Facility – Modification  |
| 3          | STREET ADDRESS  | 3A Pennant Street, Cardiff 2285  |
| 4          | APPLICANT OWNER                                       | Mr James Wearne<br>Mr Michael Constantine  |
| 5          | TYPE OF REGIONAL DEVELOPMENT                          | Designated development - waste management facility or works  |
| 6          | RELEVANT MANDATORY CONSIDERATIONS                     | <ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Lake Macquarie Local Environmental Plan 2022</li> </ul> </li> <li>Draft environmental planning instruments: Nil.</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Lake Macquarie Development Control Plan 2014</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Coastal zone management plan: [Nil]</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations.</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul> |
| 7          | MATERIAL CONSIDERED BY THE PANEL                      | <ul style="list-style-type: none"> <li>Council assessment report: 13 September 2023</li> <li>Written submissions during public exhibition: nil</li> <li>Council memo: 19 September 2023</li> </ul>   |
| 8          | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> <li>Preliminary Briefing: 27 June 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan and Jason Pauling</li> <li><u>Applicant representatives</u>: James Wearne, Jack Roxburgh and Kevin Daly</li> <li><u>Council assessment staff</u>: Geoffrey Keech</li> <li><u>Department staff</u>: Tim Mahoney and Lisa Foley</li> </ul> </li> <li>Site inspection: <ul style="list-style-type: none"> <li><u>Alison McCabe (Chair)</u>: 9 April 2021</li> <li><u>Tony McNamara</u>: 21 June 2023</li> </ul> </li> <li>Final briefing to discuss Council's recommendation: 20 September 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan and Jason Pauling.</li> <li><u>Council assessment staff</u>: Geoffrey Keech and Glen Mathews</li> <li><u>Applicant representatives</u>: James Wearne, Jack Roxburgh</li> <li><u>Department staff</u>: Leanne Harris and Holly McCann</li> </ul> </li> </ul>   |
| 9          | COUNCIL RECOMMENDATION                                | Approved   |
| 10         | DRAFT CONDITIONS                                      | Attached to the Council assessment report  |

## SCHEDULE 2

### INSTRUMENT OF MODIFICATION

Modification application: DA/430/2021/A (PPSHCC-196)  
Development application: DA/430/2021 (PPSHCC-75)  
Land: Lot 2401 DP 715257  
Address: 3A Pennant Street Cardiff, NSW 2285  
Proposed development: Waste or resource transfer station – Modification

In accordance with Section 4.55 of the *Environmental Planning and Assessment Act 1979*,  
Development Consent No. DA/430/2021 is to be modified by:

#### **Amending condition 2 Approved documentation to read:**

#### **2. Approved documentation (Modification A)**

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 |

**Amending condition 3 Restrictions on development to read:**

**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.

**Inserting new condition 8A Clause 62 and 64 consideration (formerly clause 94) after condition 8:**

**8A Clause 62 and 64 consideration (formerly clause 94) (Modification A)**

Pursuant to Clauses 62 and 64 of the *Environmental Planning and Assessment Regulation 2021*, 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 prior to the receipt and storage of tyres.

- a. A sprinkler system shall be installed which complies with AS2118.1.

and,

- b. Smoke and heat vents shall be installed which complies with specification E2.2c of the BCA (Volume 1)

or,

- c. Either a. or b. (or both) may be replaced by a performance solution designed by a qualified fire engineer in consultation with NSW Fire + Rescue.

**Amending condition 29 Screening of waste to read:**

**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.