

DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	9 December 2024
DATE OF PANEL DECISION	9 December 2024
DATE OF PANEL BRIEFING	3 December 2024
PANEL MEMBERS	Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Ashley Kavanagh, Sally Halliday
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 26 November 2024.

MATTER DETERMINED

PPSHCC-307 – Maitland – DA/2024/524 - 9 Burlington Place, Rutherford 2320 - Waste Management Facility (Tyre Recycling Facility) (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 proposed Tyre Resource Recovery Facility is located within an existing industrial area and is zoned E4 General Industrial.

The Panel has had regard to the potential impacts of development in respect of odour, air quality, and noise and is satisfied that, subject to specific conditions of consent and limits on hours of operation, the development will not result in unreasonable impacts.

All vehicles are required to enter and leave in a forward direction, and a swept path analysis has been provided to demonstrate this capability.

A Fire Impact Management Plan has been prepared and forwarded to Fire and Rescue NSW for comments. Fire and Rescue NSW advise they will provide a review post-determination.

The Panel notes that the proposal includes three (3) additional hydrants and does not meet the threshold for the building to be sprinklered. The proposal meets the NSW Fire Safety Guideline – Guideline for Bulk Storage of Rubber Tyres.

Condition 13 requires the final Fire Impact Management Plan to be endorsed by Fire and Rescue NSW prior to the issue of any Construction Certificate.

The applicant, in their presentation to the Panel, requested that this requirement be changed to prior to the Occupation Certificate because of potential delays. The Panel has considered this request and requires the endorsement prior to the issue of a Construction Certificate.

In their consideration of the matter, the Panel sought clarification regarding s7.12 contributions and the need for any building upgrades to the existing staff room.

An additional condition has been included requiring payment of the s7.12 contributions in accordance with the relevant plan. Condition 78 has also been amended to require the staff room to meet National Construction Code (NCC) requirements.

The Panel is satisfied that the site is suitable for the proposed development and that potential impacts can be appropriately managed and mitigated.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to conditions attached to the Council Assessment Report and the following amendments to conditions:

- (i) Condition 78 be amended to read as follows:

78. Building Code of Australia

All building work, including the approved staff lunchroom, must comply with the provisions of the National Construction Code (NCC).

If any upgrades are required to ensure compliance with the NCC, these must be identified and carried out as part of the construction process.

For the purposes of this condition, a reference to the NCC is a reference to the Code as in force on the date the application for the relevant Construction Certificate is made.

Prescribed conditions of development consent pursuant to Section 4.16(11) of the Environmental Planning and Assessment Act 1979 and Section 69 of the Environmental Planning and Assessment Regulation 2021.

- (ii) Addition of condition 81 to read as follows:

81. 7.12 Contributions

Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, and the Maitland S94A Levy Contributions Plan 2006, a contribution of **\$16,863.00** shall be paid to the Council.

The above amount may be adjusted at the time of the actual payment in accordance with the provisions of the Maitland S94A Levy Contributions Plan 2006.

Any outstanding component of the contribution will be indexed bi-annually in accordance with the provisions of the abovementioned Development Contributions Plan. Reviewed rates will apply following release of CPI indices by the Australian Bureau of Statistics for June and December quarter.

Payment of the above amount is required **prior to issue of the Construction Certificate for the development.**

This condition has been applied to ensure that where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council's adopted contributions plan and the provisions of section 7.12 of the Environmental Planning and Assessment Act, 1979.

To outline contributions payable to Council per Clause 4.17 of the Environmental Planning and Assessment Act 1979.

The decision was unanimous.

REASONS FOR THE DECISION

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

- (i) The site is suitable for the use.
- (ii) The potential impacts arising from the development can be managed and mitigated.
- (iii) The proposed development is within a planned industrial area and provides much needed recycling options for the broader economy.






CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments:

- (i) New condition 81 – requiring s7.12 contributions.
- (ii) Amended condition 78 – to require upgrade to NCC.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Roberta Ryan
 Tony McNamara	 Ashley Kavanagh
 Sally Halliday	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-307 –Maitland – DA/2024/524
2	PROPOSED DEVELOPMENT	Waste Management Facility (Tyre Recycling Facility)
3	STREET ADDRESS	9 Burlington Place, Rutherford 2320
4	APPLICANT/OWNER	Mondaw Pty Ltd C & N Young Investments Pty Limited
5	TYPE OF REGIONAL DEVELOPMENT	Designated Development
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Industry and Employment) 2021 Maitland Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Maitland Development Control Plan 2011 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Schedule 3 s.45(4)(f) designated development and s 61-64 matters for consideration for DAs. Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 26 November 2024 Written submissions during public exhibition: 0 Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 27 August 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Sally Halliday, Ashley Kavanagh <u>Council assessment staff</u>: Scott Fatches, Georgie Williams, Amelie Martel, Madeline Smith, Kristy Cousins <u>Applicant representatives</u>: Mark Johnson, Victoria Wilson, Mark Jackson <u>Department</u>: Leanne Harris, Holly McCann Site inspection: <ul style="list-style-type: none"> Alison McCabe: 11 October 2024 Roberta Ryan: 25 October 2024 Ashley Kavanagh: 5 November 2024 Sally Halliday: 3 November 2024

		<ul style="list-style-type: none">• Final briefing to discuss Council’s recommendation: 3 December 2024<ul style="list-style-type: none">○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Ashley Kavanagh, Sally Halliday○ <u>Council assessment staff</u>: Scott Fatches, Georgie Williams, Aiden Grgas○ <u>Applicant representatives</u>: Mark Johnson and Mark Jackson○ <u>Department</u>: Leanne Harris, Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report