



Central Waste Property Pty Limited
CARE GEM Planning Projects
PO Box 2068
PORT MACQUARIE NSW 2444

Contact: Ms Tracey Le Brun
Our Ref: DA 8/2018/892/1
Your Ref: 0015 CWS

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 8/2018/892/1** has been determined by the granting of consent, subject to the conditions listed in Schedule 1.

Date of determination:	26 April 2019
Date from which consent operates:	26 April 2019
Date from which consent lapses:	26 April 2024
Description of development:	Shed Alterations & Extensions to Existing Inert Waste Management Facility incorporating Fencing and Minor Works
Property description:	LOT: 5 DP: 1128108 8 Styles Street KURRI KURRI
Applicant:	Central Waste Property Pty Limited
Owner:	Central Waste Property Pty Limited

If you have any further enquiries regarding this notice of determination, please contact Ms Tracey Le Brun, Senior Planning Assessment Officer, of Council's Planning and Environment on (02) 4993 4181.

Yours faithfully

Tracey Le Brun
Senior Planning Assessment Officer

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STATEMENT OF REASONS:

Pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the *Environmental Planning and Assessment Act 1979*, the reasons for the decision (having regard to any statutory requirements applying to the decision), are as follows:

- The proposal is ancillary to an approved land use in the IN3 Heavy Industrial zone under Cessnock Local Environmental Plan 2011.
- The proposal is consistent with the objectives of the IN3 Heavy Industrial zone under Cessnock Local Environmental Plan 2011.
- The proposal is consistent with Clause 7.3 Flood Planning of the Cessnock Local Environmental Plan 2011.
- The proposal is compliant with the provisions of Chapter C.9 Development on Flood Prone Land and Chapter D.3 Industrial Development of Cessnock Development Control Plan 2010.
- The proposal incorporates adequate measures to ensure the development does not result in any adverse impacts on the natural and built environments.
- The proposal is suited to the site, having regard to its zoning, dimensions and overall area.
- The proposal is in the public interest as the development will result in increased employment opportunities and positive economic impacts.

CONSIDERATION OF SUBMISSIONS:

Pursuant to Section 2.22 and Clause 20(2) of Schedule 1 of the *Environmental Planning and Assessment Act 1979*, in respect of considering community views, it is noted that the Application was not placed on public exhibition.

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 26 April 2024. Relevantly, Sections 4.54(4) and 4.45(5) of the Environmental Planning and Assessment Act 1979, state as follows:
 - “(4) Development consent for:
(a) the erection of a building, or
(b) the subdivision of land, or
(c) the carrying out of a work,
does not lapse if building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under this section.*
 - (5) Development consent for development other than that referred to in subsection (4) does not lapse if the use of any land, building or work the subject of that consent is actually commenced before the date on which the consent would otherwise lapse”.*
- (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 Planning Assessment 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>CA</i>	Certifying Authority
<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>PCA</i>	Principal Certifying Authority
<i>OC</i>	Occupation Certificate
<i>OSD</i>	On Site Detention
<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

CONDITIONS OF CONSENT

1. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2018/892/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Various Plans, Site Plans, Elevations, Sections, Fence and Wall Details, Project No. 170503, Revision D, 6 Sheets	Thomas Building Design	28 September 2018

Document Title	Prepared By	Dated
Statement of Environmental Effects	Gem Planning Projects	28 September 2018

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

2. CC, PCA & Notice Required

In accordance with the provisions of Section 81A 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 PCA has been appointed by the person having benefit of the development consent in accordance with Section 109E of the *EP&A Act 1979*; and
- c) If Council is not the PCA, notify Council no later than two (2) days before building work commences as to who is the appointed PCA; 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.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of a Construction Certificate.

3. Parking – Minimum Requirement

On-site car parking shall be provided for a minimum of eighteen (18) vehicles and such being set out generally in accordance with Council's Development Control Plan.

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

4. Stormwater – Detention Requirement

The registered proprietor of the land is to provide a stormwater detention facility within the boundaries of the site to reduce the peak stormwater discharge from the developed lot to that of the peak stormwater discharged from the undeveloped lot for all storm events from the 1 in 1 year to the 1 in 100 year Average Recurrence Interval (ARI) storm event. 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. Details shall include on-site storage, the method of controlled release from the site, and connection to an approved drainage system in accordance with Council's 'Engineering Requirements for Development'.

Detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development, shall be prepared by an engineer suitably qualified and experienced in the field of hydrology and hydraulics. The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the CA as satisfying this requirement prior to the issue of a CC.

5. Cessnock Section 7.12 Levy Development Contributions Plan

A total monetary contribution of \$3,500.00 is to be paid to Council, pursuant to Section 7.12 (cf previous s 94A) of the *Environmental Planning and Assessment Act 1979*, such contribution is to be paid prior to the issue of a Construction Certificate in respect of the proposed development.

- i) This condition is imposed in accordance with the provisions of *Cessnock S94A Levy Development Contributions Plan 2017*. A copy of the document is available on Council's website at www.cessnock.nsw.gov.au or maybe inspected at Councils' Customer Services Section, Administration Building, Vincent Street Cessnock.
- ii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx release date
September	Late October
December	Late January
March	Late April
June	Late July

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

6. Flooding – Structural Integrity

The applicant shall submit a report from a suitably qualified and experienced engineer in respect of the proposed development, such report to verify that:-

- a) any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property
- b) the building structure will be able to withstand the force of flood waters (including buoyancy forces) and the impact of debris
- c) finishes, plant fittings and equipment subject to inundation will be of materials and functional capability resistant to the effects of flood waters.

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

7. Fire Safety

The proposed building extensions will result in a large isolated building in excess of the maximum size of a fire compartment as detailed in Table C2.2 of the BCA. Plans and Specifications reflecting compliance with the provisions of Part C2 of the BCA are to be considered by the PCA when assessing the CC.

8. Waste Management Plan

A Waste Management Plan is to be provided to the CA prior to the issue of a CC. The Waste Management Plan is to be prepared in accordance with the following:

- a) Estimated quantities of materials that are reused, recycled, removed from the site
- b) On site material storage areas during construction
- c) Materials and methods used during construction to minimise waste
- d) Nomination of end location of all waste generated

All requirements of the approved Waste Management Plan must be implemented during the construction of the development.

PRIOR TO COMMENCEMENT OF WORKS

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

9. 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.

10. Road Opening Permit

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, public road reserve, or public reserve (open space) be required, a "Road Opening Permit" will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The Permit application is to be submitted to, and approved by, Council prior to works commencing.

11. 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.

12. Site To Be Secured

The site must be secured and fenced prior to works commencing. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property.

Separate approval is required to erect a hoarding or temporary fence on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

Any hoarding, fence or awning is to be removed when the work is completed.

13. PCA Signage and Contact Details

Prior to the commencement of works, a sign must be erected in a prominent position on the site on which the proposal is being carried out. The sign must state:

- a) Unauthorised entry to the work site is prohibited
- b) The name of the principal contractor (or person in charge of the site) and a telephone number on which that person may be contacted at any time for business purposes and including outside working hours
- c) The name, address and telephone number of the *PCA* for the work

Any such sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

14. Toilet Facilities

Toilet facilities are to be provided prior to works commencing, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be a sewage management facility approved by the NSW Department of Health and/or Council, and operate in an environmentally responsible manner, free of nuisance or offence, and be appropriately serviced.

DURING WORKS

The following conditions are to be complied with during works.

15. 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.

16. Stormwater Runoff

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

17. Construction Hours

Excavation or building work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

18. Construction Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment and Heritage *Noise Guide for Local Government*.

19. 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.

20. Waste Management

Rubbish generated from the development is to be suitably contained on site at all times. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown off site.

21. Building Materials On Site

All building materials, plant and equipment are to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves, etc.

22. Demolition

All demolition works are to be carried out in accordance with AS 2601-2001 "Demolition of structures", with all waste being removed from the site. Hazardous waste such as asbestos cement sheeting etc, should be handled, conveyed and disposed of in accordance with guidelines and requirements from NSW Workcover Authority. Disposal of asbestos material at Council's Waste Depot requires prior arrangement for immediate landfilling.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to issue of either an Interim or Final Occupation Certificate (as specified within the condition):

23. Occupation Certificate

Occupation or use of premises for the purposes approved by this consent shall not commence until all conditions of this consent have been complied with and the Occupation Certificate has been issued.

24. Roads – Concrete Crossing

The registered proprietors shall construct and maintain a concrete access crossing from the kerb and gutter in Styles Street to the property boundary, in accordance with Council's "Engineering Requirements for Development" and AS 2890.1. A S138 Roads Act Approval is required from Council prior to any construction commencing within the road reserve. The access crossing is required to be constructed prior to the issue of a Final OC. Where an Interim OC is issued the crossing shall be completed within six (6) months from the date of the Interim OC.

Construction of the crossing will require inspections to be undertaken by Council. The applicant shall pay Council engineering site supervision fees in accordance with Council's current Fees & Charges, prior to the inspections being undertaken.

The initial fee will facilitate approval of the application and one (1) construction inspection (steel and formwork inspection).

A final inspection will be required upon completion of the driveway and restoration of all disturbed footway areas. (A separate fee will be required to be paid when the final inspection is booked.) Should further inspections become necessary as a result of unsatisfactory or defective works, additional inspection fees will be charged in accordance with Council's current Fees & Charges.

The applicant is to advise Council at least 48 hours prior to inspection of works within the footpath and/or road reserve.

25. Parking – Completion

Car parking areas shall be completed prior to the issue of an OC.

26. Disabled Access/Parking

The proposed development shall be provided with vehicular access and parking for the disabled in accordance with AS 1428.1 and AS 2890.6. The access shall be provided prior to issue of an OC.

27. 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.

28. Completion of Driveway Access Crossing

The driveway access crossing is to be constructed prior to the issue of an OC.

29. Certification of Electrical Fittings

All electrical fittings and electrical outlets are to be installed and certified by a registered surveyor as being not less than 500mm above the 100 year Average Recurrence Interval flood level. The fittings / outlets are to therefore be installed at a level of RL 12.07m Australian Height Datum or higher. The certification shall be submitted to the PCA prior to issue of an OC.

30. Certification of Fire Services

The building must comply with the fire safety provisions applicable to the approved use. The applicant shall provide Council and the Fire Commissioner with a copy of the Final Fire Safety Certificate and the Fire Safety Schedule relating to the required fire safety measures, in accordance with Division 4 of the Environmental Planning and Assessment Regulation 2000 prior to occupation of the building or issue of an OC.

The Final Fire Safety Certificate and the Fire Safety Schedule are to be prominently displayed in the buildings.

ADVISORY NOTES

31. "DIAL BEFORE YOU DIG" DIAL 1100

Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au

32. Other Approvals and Permits

The applicant shall apply to Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, and/or any other approvals under *Section 68 (Approvals)* of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

33. Responsibility for Other Consents/Agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities prior to works commencing, as relevant which includes the Natural Resource Access Regulator having regard to a restriction to use in the 88B Instrument.

34. Site Contamination Issues During Construction

Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination, Council must be immediately notified by the applicant, and works must cease. Works must not recommence on site until approval is granted by Council.