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| MEMO | | | | |  |
| To: | Hunter and Central Coast Regional Planning Panel | | | | |
| From: | Geoffrey Keech – Development Planner | | | | |
| File: | DA/430/2021 | **Reference:** | PPSHCC-75 | Date: | 23 July 2021 |
| Subject: | Supplementary information for 3A Pennant Street Cardiff - Waste transfer station | | | | |

At the determination briefing held on Wednesday 21 July 2021, the Hunter and Central Coast Regional Planning Panel (Panel) requested Council staff provide a memo to the Panel addressing the following:

* the contributions amount and calculation details of the proposed road haulage.
* address draft Environmental Planning Instruments, including State Environmental Planning Policies, Local Environmental Plans and Explanation of Intended Effects.
* increase in truck movements arising from the development.
* updated conditions of consent.

This memo responds to this request.

**Road haulage**

The development is subject to heavy vehicle haulage levies under the Lake Macquarie City Council Development Contributions Plan – Glendale Contributions Catchment 2015 (2021 update) (s7.11 plan). The road haulage levy calculation is based on several variables, including:

* the affected route, pavement types, and maintenance costs.

Data for the route, pavement types, and maintenance costs is derived from Council’s assets records.

* the difference between the existing traffic load and the traffic load caused by the development (using the Austroads vehicle classifications to standardise trucks by Equivalent Standard Axles).

The existing traffic loading is based on Council’s traffic count data. Munibung Road traffic counts east and west were conducted following the opening of the extension through to TC Frith Avenue in 2020, and is considered current. New count data for Pennant Street was obtained in July 2021.

* the tonnage of material transported.

Data for the total material transported and the trucks used by the development was derived from the current application (99,800 T/yr) and information supplied by the applicant based on trucks received at the Kurri Kurri facility. Vehicle trips were considered for waste transported into the site, then back out again.

Using the above data, a road haulage contribution of $21,271 per year is payable, which comprises $15,832 for incoming waste and $5439 for outgoing waste.

The total figure resulting from the haulage calculation can vary considerably depending on the total amount of waste hauled, the type of trucks used and the route chosen. This may result in an under- or over-payment if a fixed figure is adopted. For this reason, the draft condition of consent seeks to apply a variable amount, based on the calculation as published in the contributions plan with actual usage data from the operations of the site. This approach accounts for the variability of business year on year, flexibility of vehicle usage, and the potential for route changes in the future, to deliver a fair and accurate outcome.

The applicant has been consulted on this approach and verbally agreed it was appropriate.

**Draft Environmental Planning Instruments**

**Remediation of Land SEPP**

Explanation of Intended Effect exhibited from 31 January to 13 April 2018.

The intent of this draft SEPP is to manage contaminated land, particularly where land is being converted from one use to a sensitive use (such as residential). The key policy changes between SEPP 55 and the draft SEPP relate to remediation of known contaminated land. The development is not changing from an industrial type use, and there is no contamination known at this site.

None of the proposed changes listed in Attachment B of the policy are relevant to this proposal.

Attachment C of the policy proposes a new Schedule which specifies potentially contaminating activities. Waste storage or treatment is listed in this proposed new schedule, however it is unclear if a transfer station would be considered storage, due to the relatively rapid turnover of material through the site. Notwithstanding clarity on that matter, the proposed activities are being conducted on a concrete surface within a bunded shed and relating to materials that should not be contaminated and have been screened. The risk of contamination occurring on the site is very low and is consistent with the intent of the draft SEPP.

**Draft Environment SEPP**

Explanation of Intended Effect exhibited from 31 October 2017 to 31 January 2018.

The intent of this draft SEPP is to consolidate seven existing SEPPs into one cohesive document, protecting the environment and key locations within the State.

The development is not located within any of the key catchments, and is not urban bushland. The draft SEPP is not relevant to the application.

**Proposed SEPP (Design and Place)**

Explanation of Intended Effect exhibited from 26 February to 28 April 2021.

The intent of the draft SEPP is to ensure good design is considered in the development of land. The SEPP will consolidate SEPP 65 and SEPP (BASIX), along with the introduction of sustainability focussed considerations. The draft SEPP is framed around five guiding principles:

1. Design places with beauty and character.
2. Design inviting public spaces.
3. Design productive and connected places.
4. Design sustainable and greener places.
5. Design resilient and diverse places.

The development application does not propose any new designs, but rather reuses existing infrastructure that is well suited to the proposed use. The site already incorporates existing mature trees, which is uncommon for many industrial sites, and the proposal accommodates their retention. The EIE notes the existing SEARs process considers design and place quality, which this application has been through. Consideration of country and cultural significance has been addressed in the Aboriginal heritage assessment lodged with the application.

The relevant proposed mandatory matters for consideration include:

* Minimising car parking

The development provides an appropriate amount of car parking to service the proposed use.

* Emissions and resource efficiency

This has been considered in the application through the assessment of air and noise quality, and the nature of the development as a waste transfer facility.

* Tree canopy

Existing tree canopy at the site is being retained.

The application is consistent with the aims of the draft SEPP.

**Building Business Back Better**

Explanation of Intended Effect exhibited from 31 March to 9 May 2021.

The draft changes to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) aimed to improve assessment timeframes for business-related development. Included in the draft SEPP are changes to the industrial zone building standards. As there is no new buildings being constructed, the changes are not relevant.

The proposed Community Circular Economy Facilities would not apply to this development due to differences in materials processed and exceedance of the total tonnage threshold.

**Employment Zones Reform**

Position paper exhibited from 20 May to 30 June 2021.

The draft changes to the Standard Instrument aim to promote productivity and growth and ensure fit for purpose employment land. The draft Standard Instrument proposes to introduce new zones E1-E5, which will replace the existing B and IN zones. The IN2 Light Industrial zone will be split across the E3 Productivity Support and E4 General Industrial zones, however it is not clear at this time which this particular site would fall into.

Waste management facilities are not listed in the draft Standard Instrument as either permitted or prohibited development for either the E3 or E4 zone, nor any other zone, and the term is not listed for consolidation or change in the position paper. The position paper notes other SEPPs set land use permissibility, and where this occurs the land use is generally not listed in an LEP.

SEPP (Infrastructure) sets permissibility for a waste or resource transfer station for the IN2 zone, and therefore permissibility for this development would be retained through that EPI. Any amendments required to SEPP (Infrastructure) are not yet available for review, however the proposed land use matrix indicated waste or resource transfer stations will be permissible under SEPP (Infrastructure) in both the E3 and E4 zones.

The proposed changes to the Standard Instrument will not impact the permissibility of the development.

**Additional traffic generated by this development**

The site is currently unoccupied, and therefore not generating any vehicle movements. Its former use was a grain handling facility which included truck movements associated with the delivery of grain to and from the site. The site was last in operation no later than its sale in December 2019.

A Traffic Impact Assessment (TIA) was submitted with the application, which was based on the average trucks moving through the Kurri Kurri facility. An average of 83 4-Tonne trucks bringing waste in and 12 30-Tonne trucks taking waste out each day creates a daily total of 190 truck movements, plus a small number of employee vehicles.

The difference in truck movements between the former grain handling facility and proposed use is not known, but will be less than the numbers listed above.

Transport for NSW and Council’s Traffic Engineer have considered and are satisfied with the impact of traffic generated by the development.

**Amended draft conditions of consent**

Following the determination briefing and completion of this supplementary memo, the following conditions are recommended to be updated.

1. Restrictions on development

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.

The development shall accept only waste classified as General Solid Waste (non-putrescible).

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

5. Contribution Toward Provision or Improvement of Amenities or Services

1. 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 (± 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.

Should you have any further questions, or require further information to assist in the Panel’s determination of the application, please contact me on 02 4921 0025 or gkeech@lakemac.nsw.gov.au.

Geoffrey Keech

Development Planner

Development Assessment & Certification