

DATE OF DETERMINATION	27 July 2021
PANEL MEMBERS	Alison McCabe (Chair), Juliet Grant, Sandra Hutton, Jason Pauling and Roberta Ryan
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 23 July 2021.

MATTER DETERMINED

PPSHCC-75 – Lake Macquarie – DA/430/2021 at 3A Pennant St, Cardiff – 3A Pennant St, Cardiff (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 had the benefit of briefings from the Council and the applicant.

In the deliberation of this matter the Panel requested a supplementary memo from Council to address:

- Consideration of relevant draft EPIs;
- Details of the road haulage contribution, how it is calculated and condition 5 amendments to reflect the amount;
- Amended condition 3 that includes a limitation on the use to a waste transfer station and the maximum tonnage of waste permitted on site at any one time; and
- Vehicle movements arising from the development.

The Panel has considered this memo and revised conditions 3 and 5 and is satisfied that the development as proposed is appropriate for its site and location. It is also satisfied that impacts arising from the development can be appropriately mitigated. The Panel notes that amended condition 5 does not specify a monetary amount but establishes the method for the contribution to be calculated annually to provide flexibility to reflect actual operations across the year. The Panel has been advised that the applicant has accepted the amended condition.

The Panel notes there is a disconnect between condition 24 which permits 24 hour operation seven (7) days a week and the GTAs as provided by the Environmental Protection Authority (EPA). The EPA condition does not permit activity on Sunday or public holidays.

The Panel is satisfied that 24 hour operation over seven (7) days, given the site's location within an existing industrial area and removed from sensitive land uses, is appropriate. The Panel would not typically determine a matter with inconsistent conditions.

The Panel was informed by the applicant that it will be seeking amendment to the GTAs and subsequent licensing requirements. The Panel is supportive of the hours proposed. Until the matter is resolved, the Panel notes that the applicant will need to comply with the more stringent condition i.e. GTAs.

Development application

The panel determined to approve the development application pursuant to section 4.16 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 reasons outlined in the council assessment report.

CONDITIONS

The development application was approved subject to the conditions in the assessment report with the following amendments to conditions 3 and 5:

- Condition 3 amended to refer to specific use and maximum tonnage limits and at any one time and to read as follows:

3. 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.

- Condition 5 amended to include the contribution amount review mechanism and to read as follows:

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.

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)	 Juliet Grant
 Sandra Hutton	 Jason Pauling
 Roberta Ryan	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-75 – Lake Macquarie – DA/430/2021
2	PROPOSED DEVELOPMENT	Waste and resource management facility (waste or resource transfer station)
3	STREET ADDRESS	3A Pennant St, Cardiff
4	APPLICANT/OWNER	Applicant: Central Waste Pty Ltd Owner: Mr M Constantine
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - waste management facility or works
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (State and Regional Development) State Environmental Planning Policy (Infrastructure) State Environmental Planning Policy No. 55 – Remediation of Land Lake Macquarie Local Environmental Plan 2014 Draft environmental planning instruments: <ul style="list-style-type: none"> Remediation of land SEPP Proposed Design & Place SEPP Building Business Back Better Employment Zones Reform Development control plans: <ul style="list-style-type: none"> Lake Macquarie Development Control Plan 2014 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clause 93 and 94 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: 14 July 2021 Council supplementary assessment memorandum: 23 July 2021 Written submissions during public exhibition: nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 19 May 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Juliet Grant and Jason Pauling <u>Council assessment staff</u>: Geoffrey Keech and Amy Regado <u>Department staff</u>: Leanne Harris Site inspection: <ul style="list-style-type: none"> <u>Alison McCabe (Chair)</u>: 9 April 2021 <u>Juliet Grant</u>: 1 May 2021 <u>Sandra Hutton</u>: 15 April 2021 Final briefing to discuss council's recommendation: 21 July 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Juliet Grant, Jason Pauling and Roberta Ryan

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Geoffrey Keech and Amy Regado ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley <ul style="list-style-type: none"> • Applicant Briefing: 21 July 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Juliet Grant, Jason Pauling and Roberta Ryan ○ <u>Council assessment staff</u>: Geoffrey Keech and Amy Regado ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley ○ <u>Applicant representatives</u>: Ray Nielsen, Kevin Daly, Amanda Weston and Phil Towler <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report