



Attachment 1 to Item 2.1.2.

Draft Conditions of Consent

Date of meeting: 27 February 2025
Location: Council Chambers
Time: 10am



ATTACHMENT 1: DRAFT CONDITIONS OF CONSENT

Recommendation

That development application DA0491/24 at Lot 192, DP 729625 & Lot 194, DP 823986, No. 1 The Driftway, South Windsor for the construction of three temporary all-shelter buildings at the existing waste management facility for the storage of materials, plant and infrastructure be approved, subject to the following conditions:

General Conditions

1. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the approved plans and supporting documentation listed below which have been endorsed by Council's approved stamp, except where amended in red on the plans and/or amended by other conditions of consent:

a) Plans Reference:

Job No.	Drawing Description	Prepared by	Revision	Sheet	Date
23016	Location Plan	SA Design Drafting	1	1	18/09/2023
23016	Site Plan	SA Design Drafting	1	2	18/09/2023
23016	Proposed Shelter 1 – Plans & Elevations	SA Design Drafting	1	3	18/09/2023
23016	Proposed Shelter 2 – Plans & Elevations	SA Design Drafting	1	4	18/09/2023
23016	Proposed Shelter 3 – Plans & Elevations	SA Design Drafting	1	5	18/09/2023

b) Document Reference:

Document Title	Reference	Prepared By	Date
Statement of Environmental Effects	-	Wedgetail Project Consulting	18 October 2024

No works, other than those approved (including raising or lowering of ground levels on the site, or construction of retaining walls on any property boundary) are permitted by this consent.

Note: Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- (i) any amendments made by Council on the approved plans or documents;
- (ii) any notes, markings, or stamps on approved plans or documents; and
- (iii) any conditions contained in this consent.

2. Works Must Not Commence Until a Construction Certificate is Issued

Construction or preparatory work (including earthworks or tree and/or vegetation removal) must not commence until:

- a) a Construction Certificate is obtained from either Council or an Accredited Certifier;



- b) a Principal Certifier is appointed; and
- c) a Notice of Commencement is lodged with Council.

Note: If the Construction Certificate is issued by an Accredited Certifier that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval (a registration fee is payable upon lodgement).

3. **Appointment of a Principal Certifier**

No work shall commence until:

- a) A Principal Certifier is appointed for the building/engineering works and the following details relating to the carrying out of the works have been provided:
 - (i) name and licence number of the builder/contractor undertaking the construction works; or
 - (ii) name and permit number of the owner-builder (if relevant);
- b) The Principal Certifier has:
 - (i) provided a copy of the notice of its determination to the consent authority, and to Council (within two days after the date of the determination);
 - (ii) notified the person having benefit of the consent of any critical stage inspections and other inspections that it requires to be carried out in relation to the approved work;
 - (iii) notified Council of its appointment (not less than two days before commencement of building work);
- c) The person having benefit of the consent (if not carrying out work as an owner-builder) has:
 - (i) appointed a principal contractor who must hold a 'contractor licence' if any residential building work is involved;
 - (ii) notified the Principal Certifier of the appointment of the principal contractor;
 - (iii) notified the principal contractor of any critical stage inspections or any other inspections that are required to be carried out in relation to the approved work; and
- d) At least two days' notice are to be provided to Council of the date on which it is proposed to commence work associated with this development consent.

The accredited certifier must provide copies of all Part 6 Certificates issued under the *Environmental Planning and Assessment Act 1979* relevant to this development to Council within seven days of issuing the certificate.

Note: A registration fee applies.

4. **Occupation Certificate Required Prior to The Use Of The Building**

The building must not be occupied or used prior to the issuing of an Occupation Certificate by the Principal Certifier. Where a partial Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

A copy of any Occupation Certificate must be submitted to Council within two days of its issue.

5. **Prescribed Conditions - Compliance with National Construction Code**

All building works must be carried out in accordance with the requirements of the National Construction



Code (Building Code of Australia).

6. Time Limited Consent

The Municipal Solid Waste (MSW) processing trial demonstration plant proposed within Shelter 2 is limited to an operational trial period of 12 months from the issue of the occupation certificate and the commencement of use.

Note: *A new development application must be submitted and determined prior to the expiration of the time period if it is intended to continue the use. If an application is not submitted and determined within the specified time period, the MSW processing plant must be decommissioned and removed from Shelter 2.*

Prior to the Issue of Construction Certificate

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate. In many cases, the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate.

The Accredited Certifier may require a Compliance Certificate to address particular matters below:

7. Structural Engineers Design - Concrete and Structural Steel

A qualified Structural Engineer's design for all reinforced concrete and structural steel must be provided to the Accredited Certifier prior to issue of Construction Certificate.

8. Erosion and Sediment Control Plan

Prior to the issue of the Construction Certificate, the applicant must submit to and obtain the Accredited Certifier approval of an Erosion and Sediment Control Plan (ESCP). The ESCP must show the location of site boundaries, adjoining roads, approximate grades, vegetation, site access, impervious areas, existing and proposed site drainage and a north point.

The ESCP must take into account the requirements of Landcom's publication 'Managing Urban Stormwater - Soils and Construction' (2004). The plan must show the following:

- a. Timing of works;
- b. nature and extent of earthworks, including the amount of any cut and fill;
- c. where applicable the diversion of runoff from upslope lands around the disturbed areas;
- d. location of all soil and other material stockpiles including topsoil storage;
- e. location and type of proposed erosion and sediment control measures;
- f. site rehabilitation proposals; and
- g. frequency and nature of maintenance program.

9. Soil and Water Management Plan

The applicant must submit to and obtain approval from the Principal Certifier of a Soil and Water Management Plan (SWMP) prior to issue of a Construction Certificate. The SWMP must take into account the requirements of Landcom's publication 'Managing Urban Stormwater - Soils and Construction (2004)' and must contain, but not be limited to:

- a) clear identification of site features, constraints and soil types;
- b) details of a strategy for phasing of construction works so that land disturbances are confined to areas of a manageable size and kept to a minimum;
- c) erosion and sediment control plans must be provided for three phases of construction:
 - (i) prior to commencement of works;
 - (ii) during bulk earthworks;



- (iii) post drainage construction;
- d) any temporary sediment basins must be as a minimum designed to a five day 85th percentile rainfall event and soil type in calculations must be confirmed by a geotechnical engineer;
- e) erosion and sediment control plans must provide site-specific management measures, including details of short and long-term measures to be employed to minimise soil erosion and the discharge of sediment to land and/or waters including the locations and capacities of sediment fencing/straw bales, temporary sediment basins, sediment filters, filter barriers and other controls;
- f) a strategy for progressive revegetation and rehabilitation of disturbed areas of earth as rapidly as practicable after completion of earthworks;
- g) identification of all potential sources of water pollution and a detailed description of the remedial action to be taken or management systems to be implemented to minimise emissions of these pollutants from all sources within the subject site;
- h) measures to handle, test, treat, re-use and dispose of stormwater and contaminated water and soil;
- i) procedures for the re-use, treatment and disposal of water from sedimentation basins; and
- j) a program for reporting on the effectiveness of the operational and construction sedimentation and erosion control system against performance goals.

10. Long Service Levy Payment

The payment of a long service levy as required under Part 5 of the *Building and Construction Industry Long Service Payments Act 1986* is required. Evidence that the levy has been paid, is to be submitted to the Principal Certifier prior to the issue of any Construction Certificate.

Note: All building and construction work costing \$25,000 and above are subject to the payment of a Long Service Levy at the rate of 0.35%. Payments can be made at Long Service Payments Corporation offices or most councils.

Prior to Any Works Commencing on Site

11. Principal Certifier - Details

The applicant must advise Council of the name, address and contact number of the Principal Certifier, in accordance with Section 6.6(2) of the *Environmental Planning and Assessment Act 1979*.

12. Toilet Facilities

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

- a. be a standard flushing toilet connected to a public sewer;
- b. be attached to an approved on-site effluent disposal system;
- c. be a temporary chemical closet that is regularly maintained; and
- d. appropriate facilities for the disposal of sanitary items are to be provided within the toilet.

13. Safety Fencing

The site is to be secured by a fence, in accordance with SafeWork NSW requirements, to prevent unauthorised access during the period of all works.

14. Notice of Commencement



No work shall commence until a notice of commencement has been provided to Council. This notice is to be provided not less than two days from the date on which it is proposed to commence work associated with this Development Consent. The notice must also contain:

- a) details of the appointment of a Principal Certifier (PCA) providing name, address and telephone number; and
- b) details of the name, address and licence details of the Builder.

15. **Principal Certifier Site Sign**

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a) showing the name, address and telephone number of the Principal Certifier for the work;
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c) stating that unauthorised entry to the work site is prohibited.

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

16. **Construction Certificate - Required Prior to Commencement of Works**

A Construction Certificate as specified in this consent is required prior to the commencement of work on the site.

17. **Erosion and Sediment Control for Minor Development**

Erosion and sediment control devices are to be installed and maintained until the site is fully stabilised in accordance with Hawkesbury Council's publication *Guidelines for Erosion and Sediment control on a building site (2017)*.

During Construction

18. **Construction Hours**

Clearing of land, running of machinery, excavation, and/or earthworks, building works and the delivery of building materials must be carried out between the following hours:

- a. between 7am and 6pm, Mondays to Fridays inclusive;
- b. between 8am and 4pm, Saturdays;
- c. no work on Sundays and public holidays; and
- d. works may be undertaken outside these hours where:
 - i. the delivery of vehicles, plant or materials is required outside these hours by the Police or other authorities;
 - ii. it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and
 - iii. a variation is approved in advance in writing by Council.

19. **Site Management During Construction**

The following requirements relating to site management apply during and immediately following



construction:

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Copies of receipts stating the following must be given to the Principal Certifier:
 - (i) the place to which waste materials were transported;
 - (ii) the name of the contractor transporting the materials; and
 - (iii) the quantity of materials transported off-site and recycled or disposed of.
- d) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- e) During construction:
 - (i) all vehicles entering or leaving the site must have their loads covered;
 - (ii) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads; and
 - (iii) any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to the public.
- f) At the completion of the works, the work site must be left clear of waste and debris.

Note: In the event it is not possible to keep the footpath or road reserve clear during construction works written approval from Council must be obtained prior to any closing of the road reserve or footpath area. The closure must take place in accordance with Council's written approval. The area must be signposted and such signposting be maintained in a way that ensures public safety at all times.

20. **Tree Removal**

No approval is expressed or implied for the removal of trees. No trees are to be removed without separate Council approval.

21. **Loading and Unloading During Construction**

The following requirements relating to loading and unloading apply during construction:

- a) All loading and unloading associated with construction activity must be accommodated on site.
- b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate approval must be obtained from Council.



22. Critical Stage Inspections

Prior to the commencement of building work and at nominated stages during the construction of the building, a minimum of 48 hours' notice is required to be provided to allow the Principal Certifier to ensure that the critical stage inspections are undertaken.

Note: Critical stage inspections are required to be carried out in accordance with Clause 162A of the *Environmental Planning & Assessment Regulation 2000*.

23. Earthworks - General Requirements

All earthworks on site must comply with the following:

- a) topsoil must be stripped only from approved areas and must be stockpiled for re-use during site rehabilitation and landscaping;
- b) once the topsoil has been removed the natural batter must be suitably stepped, scarified or roughened to prevent slipping and the fill is to be keyed in to hold the toe of the fill batter in place;
- c) filling must comprise either uncontaminated Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM). Contamination certificates for all source material must be provided to the Principal Certifier prior to placing any fill on site;
- d) a ticketing system is to accompany any material being brought to the site. A register is to be kept on site to cross reference against the source records. An independent site auditor is to be engaged to undertake appropriate certification regarding the monitoring and validation of the fill material imported to the site as being sound, suitable for the proposed use and free of contamination;
- e) where batters exceed a ratio of three horizontal to one vertical, retaining walls, stone flagging or terracing must be constructed;
- f) all fill within the site shall be placed in layers not exceeding 300mm thickness and compacted to achieve a minimum dry density ratio of 98% when tested in accordance with Australian Standard AS 1289 - 'Methods of testing soils for engineering purposes unless otherwise specified'; and
- g) all disturbed areas are to be stabilised/revegetated, using a minimum 300mm surface layer of topsoil, as soon as practicable after the completion of filling works.

Note: ENM is defined by the Excavated Natural Material Exemption - NSW Environment Protection Authority.

Prior to Issue of Occupation Certificate

24. Dilapidation Report - Completion of Works

On completion of the development that is the subject of this consent, and prior to the issue of the Occupation Certificate, a final dilapidation report is to be prepared by an appropriately qualified person and is to be provided to the Principal Certifier and Council identifying:

- a. Whether any damage to surrounding properties and/or public infrastructure has occurred as a result of the development;
- b. the nature and extent of any damage caused to the adjoining property and/or public infrastructure as a result of the development;
- c. the nature and extent of works required to rectify any damage caused to the adjoining property and/or public infrastructure as a result of the proposed development;
- d. the nature and extent of works carried out to rectify any damage caused to the adjoining property and/or public infrastructure as a result of the development; and



- e. the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property and/or public infrastructure as a result of the development.

This report must reference the original dilapidation survey and reports that were required to be provided to the Principal Certifier in accordance with this consent.

The developer must bear the cost of carrying out works to restore all damage to adjoining buildings as a result of the carrying out of the development, and no occupation of the development must occur until damage caused as a result of the carrying out of the development is rectified. OC126 ~Change of Use – Tourist and

25. **Section 307 Compliance Certificate – Council Infrastructure**

Prior to the issue of any Occupation Certificate, the applicant must provide to the Principal Certifier a copy of the Section 307 Compliance Certificate or a copy of the Section 306 Notice of Requirements in which states 'no minor or major works' issued by Council in relation to Council's Infrastructure.

26. **Infrastructure Repair at Completion of Works**

Prior to the issue of any Occupation Certificate, any public infrastructure damaged as a result of the development must be repaired to the satisfaction of Council.

Operational Conditions

27. **Vehicle Access – Forward Entry and Exit**

The site must be maintained to enable the forward entry and exit of vehicles

28. **Public Complaints Management**

During the operation of the development, the proprietor must ensure that the following contact details are available for community complaints:

- a) a telephone number on which complaints about operations on the site may be registered;
- b) a postal address to which written complaints may be sent; and
- c) an email address to which electronic complaints may be transmitted.

The proprietor must ensure that the required details are publicly available including, but not limited to, displaying the information on a sign near the entrance to the site, in a position that is clearly visible to the public. If the proprietor has an internet site these details must also be provided on this site.

29. **Unobstructed Driveways and Car Parking Areas**

All driveways and parking areas must remain unobstructed at all times. Driveways and car spaces must not be used for the manufacture, storage or display of goods, materials or any other equipment and must be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

30. **Storage and Handling of Hazardous Substances or Dangerous Goods**

During the occupation and ongoing use of the development, storage and handling of hazardous substances and dangerous goods located at the premises must be undertaken in accordance with the:

- a) NSW SafeWork guidelines for storage and handling of dangerous goods;
- b) NSW Environment Protection Authority Guidelines – 'Bunding and Spill Management', and



c) NSW Government Code of Practice for the Labelling of Workplace Substances.

Advisory Notes (if applicable)

(i) Approval Authority

This development falls within the Sewerage Scheme controlled by Council, therefore Council is the approval authority for all sewer works. The applicant must consult with the Waste Management Branch regarding any possible new work or upgrades to existing Council sewer mains related to this application.

(ii) Equitable Access

The applicant must make themselves aware of the *Discrimination Against People with Disabilities Act (DDA)* and assess their responsibilities and liabilities with regards to the provision of access for all people.

(iii) Acid Sulfate Soils - Monitoring of Excavation During Works

All excavations are to be monitored to ensure that acid sulphate soils are not encountered during works. Signs that may indicate the presence of acid sulphate soils include:

- a) change in colour of the soil into grey and green tones;
- b) effervescence;
- c) the release of sulphur smelling gases such as sulphur dioxide or hydrogen sulphide; and
- d) lowering of the soil Ph by at least one unit.

Should any of the above indicators be present excavation work on the site is to stop and Council is to be notified to determine what action is required to be taken before work may commence.

(iv) Site Contamination Discovered During Demolition or Construction

Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about contamination, Council must be immediately notified and works must cease. Works must not recommence on site until an agreed management strategy is developed in consultation with Council.

(v) Dial Before You Dig

Prior to commencement of work, you are required to contact the free national community service 'Dial Before You Dig' on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries should provide the property details and the nearest cross street/road.

(vi) Requirements of 88B Instrument

The applicant must make themselves aware of any User Restriction, Easements and Covenants to this property and must comply with the requirements of any Section 88B Instrument relevant to the property in order to prevent the possibility of legal proceedings against them.

(vii) Works on Public Land - Public Liability Insurance

Any person or contractor undertaking works on public land must take out a Public Risk Insurance policy with a minimum cover of \$10 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent.



The policy is to note, and provide protection/full indemnification for Council, as an interested party. A copy of the policy must be submitted to Council prior to commencement of any works. The policy must be valid for the entire period that the works are being undertaken.

(viii) **Utilities and Services**

Utilities, services and other infrastructure potentially affected by construction and operation must be identified prior to construction to determine requirements for access to, diversion, protection, and/or support.

Consultation with the relevant owner and/or provider of services that are likely to be affected by the proposed development must be undertaken to make suitable arrangements for access to, diversion, protection, and/or support of the affected infrastructure as required. The cost of any such arrangements must be borne by the developer.