

RECORD OF DECISION THE WESTERN REGION PLANNING PANEL

MEMBERS:

Gabrielle Kibble	Chair
Ruth Fagan	Panel Member
Gordon Kirkby	Panel Member
Phillip O'Neill	Panel Member
Shirley Hunter	Panel Member

The Panel requested Wakool Shire Council to seek legal advice as to the wording of conditions moved by Shirley Hunter at the meeting held 11 May so as to ensure the condition can be appropriately enforced. This is a record of the process and decision.

ITEM 1 - **2009WES006 – Wakool Shire Council DA 73/09 - Composting Pad & Effluent Holding Pond, Lot 100, Tueloga Rd. Swan Hill**

The Panel approved the Development Application subject to the conditions recommended with the Development Assessment Report at its meeting 11 May 2010 together with additional conditions as set out within the Minutes of the Meeting.

The Panel requested that Council seek legal advice for the conditions moved by Shirley Hunter, recorded as:

- *That consent be granted on the condition that the continuation of the operation be dependent on an independent audit, after a period of three (3) years, being undertaken. Verifying that no environmental harm is being caused*
- *The applicant is to meet all costs of the independent audit, with such auditors being commissioned by and reporting to Council.*
- *The Council is to seek legal advice as to the wording of this condition so as to ensure it can be appropriately enforced.*

The Council obtained legal advice for the conditions on 19 May 2010 and forwarded this advice to the Panel Secretariat, for circulation to the Panel.

The Panel Secretariat circulated the legal advice, the original minutes of panel meeting on 11 May 2010 approving the proposal and requested confirmation of the panel member's decision on the legal advice.

Panel members confirmed their agreement to the comments via email between 21 May 2010 and 4 June 2010. All Panel members are in favour of the change.

Resolved

That development application No 73/09 for the construction of a Composting Pad and Effluent Holding Pond, Lot 100, Tueloga Road, Swan Hill, be approved, subject to amended conditions in the minutes of the meeting of the 11 May 2010 and as amended by the post meeting decision:

- "1. *Within 3 years of the date of this consent, and every 3 years thereafter, the Applicant shall pay the full cost of an independent environmental audit of the development. The audit must:*

- (a) be conducted by a suitably qualified, experienced and independent expert whose appointment has been commissioned by Wakool Shire Council in its absolute discretion;*
- (b) assess all aspects of the environmental performance of the development, and its effects on the surrounding environment;*
- (c) assess whether the development is complying with relevant standards, performance measures, and statutory requirements applicable at the time of the audit. As a minimum the development must be measured against the requirements of the Protection of Environment Operations Act 1997 relating to the issue of an environment protection licence. In the event that the audit determines any irregularity or concern with the operation of the development Wakool Shire Council must provide a copy of the audit to the Department of Environment, Climate Change and Water who will independently determine if the Environment Protection Licence should be revoked;*
- (d) review the adequacy of any strategy, plan, program required under this consent, and, if necessary, recommend measures or actions to improve the environmental performance of the development, and/ or any strategy, plan, program required under this consent. The applicant or any future operator of the development must comply with the recommendations of the audit."*

Endorsed by

Gabrielle Kibble
Western Region Planning Panel
7 June 2010