

## **DETERMINATION AND STATEMENT OF REASONS**

### **HUNTER AND CENTRAL COAST JOINT REGIONAL PLANNING PANEL**

<b>DATE OF DETERMINATION</b>	31 August 2017
<b>PANEL MEMBERS</b>	Jason Perica (Chair), Kara Krason, Michael Leavey, Sandra Hutton, Councillor Nick Jones
<b>APOLOGIES</b>	Councillor John Gilbert and Justin Hamilton
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Lake Macquarie City Council, 126-138 Main Road, Speers Point on 31 August 2017, opened at 3pm and closed at 3.25pm.

#### **MATTER DETERMINED**

Waste Management / Recycling Facility involving composting of green waste and associated works, at 367 and 413 Wilton Road Awaba (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 the matters observed at site inspections listed at Item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1, pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel generally agreed with the environmental assessment and balance of considerations within the Council staff assessment report. In particular, the Panel agreed with the assessment and analysis concluding the proposal was “substantially the same development” as approved (and thereby able to be determined under Section 96 of the EPA Act 1979) and that the modifications did not trigger the “designated development” provisions of the EPA Act 1979 and associated Regulations. Council staff shared some internal legal advice with the Panel regarding the issue of designated development.

While a Clause 4.6 Variation Request was lodged due to the non-compliance with the LEP height limit for the site, the Panel noted that legally and technically such a Variation Request was not necessary. However, the Panel did consider the proposal in terms of both Section 96 and Section 79C of the EPA Act and found the proposal was acceptable, notwithstanding the proposed height, with the reasons and site-specific considerations outlined in the submitted documentation and assessment report having merit.






The proposal will have positive social and economic impacts and can be considered to represent sustainable development, as well as rational and orderly development of land. The proposal is suited to the site and the impacts are either acceptable or able to be appropriately managed and mitigated by the proposed Conditions, as amended.

#### **CONDITIONS**

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments. These amendments arose from very recent advice from the Environmental Protection Authority regarding their terms of approval, and to clarify that a condition regarding Environmental Management applies during operation, not just construction.

The following amendments to the recommended conditions apply:

- Condition 8 shall be amended to conform with the revised Terms of Approval received from the Environment Protection Authority by email dated 31 August 2017.
- Condition 14 shall be amended so the Heading states "*Construction and Operational Environmental Management Plan*", and the first sentence and subsequent references throughout the Condition refer to this terminology.

PANEL MEMBERS	
 Jason Perica (Chair)	 Kara Krason
 Michael Leavey	 Councillor Nick Jones
 Sandra Hutton	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016HCC067 – Lake Macquarie – DA/1940/2013/A
2	PROPOSED DEVELOPMENT	Waste Management / Recycling Facility being a Composting Facility
3	STREET ADDRESS	367 and 413 Wilton Road Awaba
4	APPLICANT/OWNER	Mr G. Turland / G. Turland, Coona Pty Lt ITF W&K Quinn Super Fund, RM Hanbury Pty
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy 33 - Hazardous and Offensive Development</li> <li>○ Lake Macquarie Local Environment Plan 2014</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Lake Macquarie Development Control Plan 2014</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• <i>Environmental Planning and Assessment Act 1979</i></li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i></li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or Regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 14 August 2017</li> <li>• Written submissions during public exhibition: Nil</li> <li>• Verbal submissions at the public meeting: Nil (mr Paul Grime answered questions)</li> </ul>
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing meeting 16 March 2017</li> <li>• Final briefing meeting to discuss council's recommendation, 31 August 2017, 2:30 pm. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Jason Perica (Chair), Kara Krason, Michael Leavey, Sandra Hutton, Councillor Nick Jones</li> <li>○ <u>Council assessment staff</u>: Elizabeth Lambert</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to Council Assessment Report