

## DETERMINATION AND STATEMENT OF REASONS

### WESTERN JOINT REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	29 August 2017
<b>PANEL MEMBERS</b>	Gordon Kirkby (Chair), Mark Grayson and Peter Hawkins Ruth Fagan (Teleconference) and Bill Bott (Teleconference)
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Bill Bott declared that as former Councilor he had been involved in strategic planning deliberations for the Howlong Township. He was not involved however in any discussion regarding specific development or the site. He does not therefore consider that a Conflict of Interest arises.

Meeting held at Department of Planning & Environment, 320 Pitt Street, Sydney.

#### MATTER DETERMINED

2016WES019 – LGA Federation Council, DA2016/230, at 142 Howlong- Goombargana Road, Howlong (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 4:1 in favour, against the decision was Bill Bott.

#### REASONS FOR THE DECISION

The reasons for the decision of the Panel majority were:

- The development is permissible with consent by virtue of being a *waste or resource management facility* within a prescribed zone (RU1 Primary Production) under Clause 121 of *State Environmental Planning Policy (Infrastructure) 2007*.
- The proposal is not inconsistent with the provisions of *Corowa Development Control Plan 2013*;
- The Panel is satisfied that the environmental impacts of the development are able to be managed or mitigated through the revised conditions of consent, including a new condition requiring that the development be amended to include full enclosure of the Receivals Shed.
- The Panel is satisfied that the potential traffic impacts can be mitigated through:
  - the implementation of a Traffic Management Plan; and
  - required roadworks including site access, upgrade to the Howlong-Goombargana Road between Drew Land and the Riverine Highway and the intersection of the Howlong-Goombargana Road and the Riverine Highway.
- The Panel notes that the Environment Protection Authority has considered the environmental impact statement and issued its General Terms of Approval.

- The Panel notes and has considered the draft Operational Management Plan submitted by the Applicant that details future management practices on the site to mitigate and manage environmental impacts of the proposed development, particularly air quality, noise and water quality.
- The Panel is satisfied that the proposal is not inconsistent with the former Corowa Shire Council *2001-2031 Strategic Land Use Plan* with regard to the strategic planning of the township of Howlong.
- The proposed development is consistent with the NSW Waste Avoidance and Resource Recovery Strategy 2014-21 to increase recycling rates across all waste streams and increase the proportion of waste diverted from landfill.
- The conditions of consent have been amended to strengthen community liaison and consultation, including the requirement for a Community Consultative Committee to meet quarterly.

Bill Bott disagreed with the majority decision for the following reasons:

- The site being located within the town boundary of Howlong and within 600m of residential properties, it is not in the Public Interest to grant approval.
- In the absence of any evidence to the contrary he believes there is no site anywhere within NSW where a Gore Type Compost Facility is located within the town limits and within 600m of the nearest residences.
- While the EPA have issued a GTA for the Howlong proposal it is predicated on the Cleanaway Management of the site being of the highest order. The proximity of residences is such that any risk associated with a possible management failure is an unacceptable risk.
- This being a Regional Composting Facility involving four Local Government Councils it is reasonable to assume that there would have been in place, prior to DA application, a forum where alternate sites across the whole Region could have been identified, rigorously evaluated and prioritized. This was not possible as there existed no Waste Forum. One can question how did the township of Howlong, while not being listed as a possible site at the Gerogery DA, rise to become the preferred site and what rigor was applied in looking for alternative sites across the whole Region. This is now particularly relevant in the light of Albury City Council unanimous decision to offer as an alternative site the Albury Landfill Site where all waste currently goes to for sorting prior to the proposed transport to Howlong for composting.
- Howlong has great growth potential because of the towns geographic location and its access to the Regional Growth of Wodonga, Albury and the industries based in Corowa. He accepts that in the short term, growth of Howlong can be accommodated within the current strategic plan. In the longer term, the compost proposal will limit and restrict the towns logical growth to the north and north east. The argument presented that the growth should occur along the Murray River and along the Riverina Highway towards Albury is classic ribbon development. This is not only poor planning resulting in expensive elongated water and sewerage mains, extended speed restrictions and traffic conflict at the points of traffic discharge onto the State Highway, but is unlikely to be permitted on Class A Agricultural land which is alongside the Murray River and its riparian zone

## CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments:

- **Condition 4 be added to read as follows:**

*The development is to be amended to fully enclose the Receivals Shed. Revised plans for the Receivals Shed are to be submitted to Council for approval prior to the issue of a construction certificate.*

The condition has been imposed to reduce the potential for impact of an odour source and provide greater certainty regarding mitigation of odour emissions from the facility;

- **Condition 9 be revised to read as follows:**

*The operating hours of the facility shall be between 7am and 6pm, Monday to Friday (including public holidays). For the purpose of this condition, "Operation" does not include the on-going operation of aeration fans associated with compost windrows.*

The condition has been revised to allow aeration fans associated with compost windrows to operate 24 hours;

- **Recommended Condition 13 be deleted.**

The condition is unnecessary.

- **Condition 19(a) be revised to read as follows:**

*The following amendments shall be made to the submitted Traffic Impact Assessment as contained within Appendix I of the Environmental Impact Statement:*

*Addition to Clause 6.2:*

- a. *Computerised record keeping system utilising GPS technology is to be implemented and maintained for all semi-trailers, B-Doubles and other heavy vehicles, owned by or contracted to the Operator which enter and depart the site. This system must be capable of recording in electronic form the following vehicle trip details:*
  - i. *Date, time and vehicle registration of all semi-trailers, B-Doubles and other heavy vehicles which enter or depart the site.*
  - ii. *The maximum speed reached by any vehicle travelling between the site and the Riverina Highway.*

*A report detailing the above information shall be provided by the operator to Council within two business days of receiving a written request.*

The condition has been revised to specify that the computerised record keeping system using GPS technology applies to heavy vehicles owned by or contracted to the Operator of the facility.

- **Condition 19(c) be revised to read as follows:**

- c. *except in an emergency, all vehicles are not to use exhaust brakes in Drew Lane or the Howlong-Goombargana Road.*

To prevent clarify the intent of the condition.

- **Condition 20 be revised to read as the following:**

20. *The developer must undertake the following traffic management measures at no cost to the Council, prior to commencement of operations at the site:*
  - a. *BAR and BAL turn treatments to Howlong-Goombargana Road at the entrance to the facility.*
  - b. *Howlong-Goombargana Road between Drew Lane and Riverina Highway to be upgraded to 6m wide seal and 8m wide formation.*
  - c. *The access road from the entrance in Howlong-Goombargana Road to the entrance of the facility must be constructed to a standard that allows for the passing of two trucks on a surface that does not raise dust.*
  - d. *Provide line marking and signage in accordance with RMS standard to all classified roads where required.*
  - e. *Provide Construction Management Plan for road works to be approved by Council prior to commencement of works.*
  - f. *Provide turning movements for areas accessed by heavy vehicles within the site.*
  - g. *All design drawings must comply with NSW specification and Federation Council engineering design manual.*

To make the condition read more clearly.

- **Delete recommended Conditions 86-89, re-number Condition 90 as Condition 107:**

Conditions duplicated by recommended Conditions 107-111.

- **Re-number recommended Condition 94 as Condition 109 and revise to read as the following:**

#### *Community Liaison*

109. *The Applicant must establish a Community Consultative Committee, comprising representatives of the community and the applicant that will meet at least quarterly. Discussion at the meetings must include implementation of the development consent and other statutory approvals, and provide adequate time for the community to raise matters of concern associated with the environmental impact of the development, with a view to achieving mutually satisfactory solutions.*

To rename the *Community Liaison Committee* to *Community Consultative Committee* and revise the frequency and composition of the Committee






- **Revise Recommended Condition 114 to read as:**

110. *The applicant must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint. The number shall be displayed on a sign at the entrance to the site entrance and be clearly legible from the Howlong-Goombargana Road.*

*This condition must be complied with prior to Operations commencing at the facility.*

To ensure that the telephone complaints hotline is clearly signposted at the entry to the site.

In addition to the above, there were numerous re-number revisions to the recommended conditions that are of no material consequence to the approval.

PANEL MEMBERS	
 Gordon Kirkby (Chair)	 Ruth Fagan
 Mark Grayson	 Peter Hawkins
 Bill Bott	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016WES019 – LGA Federation Council, DA2016/230
2	PROPOSED DEVELOPMENT	Organic Waste Management and Composting Facility
3	STREET ADDRESS	142 Howlong- Goombargana Road, Howlong
4	APPLICANT/OWNER	Blueprint Planning
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>○ The Murray Regional Environmental Plan No. 2 – Riverine Land (MREP)</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (State and Regional Development) 2001</li> <li>○ State Environmental Planning Policy 33 – Hazardous and Offensive Industry (SEPP 33).</li> <li>○ State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)</li> <li>○ The Corowa Local Environmental Plan 2012</li> <li>● Draft environmental planning instruments: Nil</li> <li>● Development control plans: <ul style="list-style-type: none"> <li>○ The Corowa Development Control Plan 2013</li> </ul> </li> <li>● Planning agreements: Nil</li> <li>● Provisions of the <i>Environmental Planning and Assessment Regulation 2000 (to the extent that they prescribe matters)</i>: Nil</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	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>● Council assessment report: 30 May 2017</li> <li>● Council assessment report addendum: 19 July 2017</li> <li>● Response to request for further information of 7 July 2017 by Blueprint Planning</li> <li>● Written submissions during public exhibition: 347</li> </ul>
8	<b>MEETINGS AND SITE INSPECTIONS BY THE PANEL</b>	<p>Site inspection – 15 June 2017</p> <ul style="list-style-type: none"> <li>● Final briefing meeting to discuss council’s recommendation, 15 June 2017. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Gordon Kirkby (Chair), Ruth Fagan, Mark Grayson, Peter Hawkins and Bill Bott</li> <li>○ <u>Council assessment staff</u>: Warwick Horsfall, Kate Larnach</li> </ul> </li> </ul> <p>Briefing meeting – 15 August 2017</p> <p><b>Verbal Submissions:</b></p> <p>On behalf of the Council –</p> <ul style="list-style-type: none"> <li>● Warwick Horsfall</li> <li>● Mike Eden</li> <li>● Kate Larnach</li> </ul>

		<ul style="list-style-type: none"> <li>• Megan Leahy</li> </ul> <p>On behalf of the applicant –</p> <ul style="list-style-type: none"> <li>• Mathew Kiervan</li> <li>• James Laycock</li> <li>• Penny Cresswell</li> <li>• Pat Beath</li> </ul> <p>Object –</p> <ul style="list-style-type: none"> <li>• Stuart Sizer (Howlong community committee (HCC) Chairman</li> <li>• Louise Shields (Howlong community committee (HCC)</li> <li>• John Skinner (Howlong community committee (HCC)</li> <li>• Frank Robinson</li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report