

RECORD OF DEFERRAL

NORTHERN REGIONAL PLANNING PANEL

DATE OF DEFERRAL	19 February 2020
PANEL MEMBERS	Paul Mitchell OAM (Chair), Penny Holloway, Stephen Gow, James Treloar and Stephen Bartlett
APOLOGIES	None
DECLARATIONS OF INTEREST	Paul Mitchell declared a non-significant conflict as the applicant's acoustic consultant, Oliver Mullor, was employed at EMM Consulting while he was CEO of that company. Mr Mullor was not under Mr Mitchell's supervision and he has had no contact with him for the last 10 years. Mr Mitchell stated that this past working relationship would have no influence on his opinions about the application. The Panel was satisfied with this explanation.

Public meeting held at Ray Walsh House on 19 February 2020, opened at 6:05 pm and closed at 9:12 pm.

MATTER DEFERRED

PPSNTH-11 – Tamworth Regional Council – DA2020-0138 at 284 Gidley Appleby Road, Gidley – Organic Recycling Facility (as described in Schedule 1).

REASONS FOR DEFERRAL

The Panel made four initial findings as set out below.

Firstly, the Panel sees in principle benefit in a facility of the type proposed as it would remove a significant volume of materials from the waste stream and process them into useful products.

Secondly, the Panel believes the proposal is permissible development in the subject zone (RU1 – Primary Production) and that the proposed use has been properly characterised as a 'Resource Recovery Facility'.

Thirdly, the Panel believes that the site of the proposed development is capable of satisfactorily accommodating a resource recovery facility provided that it is carefully designed and effectively managed and regulated.

Fourthly, the Panel believes that following inclusion of the stronger regulatory measures and conditions identified below, and prior to submission of an updated assessment report, it would be prudent for Council to commission an independent external review of the development proposal. The review would comment on the adequacy of the assessment process and report including its recommendations and the proposed conditions of development consent considering the submissions received on the proposal. The review would be undertaken by either a suitably qualified consulting firm or a council of similar size and population to Tamworth Regional Council. The review report would be made public.

Notwithstanding the preceding points, the Panel had concerns about the adequacy of the current application in certain key respects, being:

- the effects and acceptability of leachate discharges on neighbouring land uses and receiving water bodies;
- certainty about water sources to meet the operational needs of the proposal and evidence that the proposed sources would be acceptable to Water NSW;
- the effectiveness of contaminant identification and handling procedures, including Work, Health and Safety aspects;
- safety issues on those roads that function as both school bus and truck routes for the proposal;


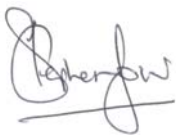



- the need, if any, for intersection upgrades to ensure safe and efficient traffic flows when traffic from the proposal is added to base traffic;
- clarification as to whether management according to AS4454 is appropriate for liquid wastes and, if not, what alternative system is proposed;
- clarification of the implications of the NSW Environment Protection Authority's proposed prohibition of heat in processing operations, particularly whether pasteurising could occur; and
- provision of adequate specifications for the contents of the required management plans, including the environmental, construction and operational plans.

The Panel also believed that stronger regulatory measures would be needed meaning additional conditions are required, including:

- a pre-commissioning environmental and compliance audit to ensure all relevant measures are in place before operations commence;
- environmental and compliance audits of the facility undertaken after one year of operations and then every three years thereafter;
- the abovementioned audits to be undertaken by a suitably qualified and experienced person or company to be approved before appointment by Council's Director of Planning. The auditor(s) must be independent of the applicant and operator of the facility. The audit reports are to be completed within three months of the nominated dates, are to be made public and are to include any recommendations needed to achieve compliance with all consent conditions and conditions in associated approvals; and
- the Council is to report on actions it has taken to address the auditor's recommendations. Such reports are to be completed and made public within three months of the dates of receipt of audit reports.

Considering the above, the Panel agreed to defer determination of the matter until all of the aforementioned information is provided in an updated assessment report. After the assessment report is received a public meeting will be held to enable consideration and determination of the application.

The decision to defer the matter was unanimous. The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

PANEL MEMBERS	
 Paul Mitchell OAM (Chair)	 Stephen Gow
 Penny Holloway	 James Treloar
 Stephen Bartlett	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-11 – Tamworth Regional Council – DA2020-0138
2	PROPOSED DEVELOPMENT	Organic Recycling Facility
3	STREET ADDRESS	284 Gidley Appleby Road, Gidley
4	APPLICANT/OWNER	Tamworth Regional Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
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) 2011 ○ State Environmental Planning Policy 33 – Hazardous and Offensive Industry ○ State Environmental Planning Policy No 44 – Koala Habitat Protection ○ State Environmental Planning Policy No 55 – Remediation of Land ○ Tamworth Regional Local Environmental Plan 2010 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Tamworth Regional Development Control Plan 2010 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • 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: 5 February 2020 • Written submissions during public exhibition: 110 • Submission on behalf of Council: 13 February 2020 • Late submission from objector: 14 February 2020 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In objection – John Simon, Jill Morphett, Scott Barwick on behalf of Tim and Joanne Barwick, David McKinnon, Doug White, Richard Morphett, Peter Gill, Mark Lyden on behalf of Jill and Richard Morphett, Emma Stilts on behalf of Manilla Community Renewable Energy Inc and Julian Johnson on behalf of Proten Tamworth Pty Ltd ○ Council assessment officer – Dan Whale and Sam Lobsey ○ On behalf of the applicant – Dan Coe
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: 19 February 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, James Treloar and Stephen Bartlett ○ <u>Council assessment staff</u>: Dan Whale, Sam Lobsey, Ross Briggs and Steve Brake • Final briefing to discuss council's recommendation, 19 February 2020, 5:30 pm. Attendees:

		<ul style="list-style-type: none">○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, James Treloar and Stephen Bartlett○ <u>Council assessment staff</u>: Dan Whale, Sam Lobsey, Ross Briggs and Steve Brake
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Annexure 4 to the council assessment report