

DATE OF DETERMINATION	2 April 2025
DATE OF PANEL DECISION	1 April 2025
DATE OF PANEL BRIEFING	18 March 2025
PANEL MEMBERS	Chris Wilson (Chair), Juliet Grant, Grant Christmas
APOLOGIES	Graham Rollinson did not attend as he is no longer a council nominated panel member
DECLARATIONS OF INTEREST	Council interest DA/Modification

Papers circulated electronically on 11 March 2025 and 27 March 2025

MATTER DETERMINED

PPSSTH-449 – SHELLHARBOUR – DAM0118/2024 at 44 and 58 Buckleys Road SHELLHARBOUR 2529 (Lot 1 DP 491907, Lot 1 DP 110135, Lot 21 DP 653009) – Modification to DA 7.2014.523.1 – (Dunmore Resource Recovery Development) – Modification to extend the operating hours at the FOGO facility (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 briefings and the matters listed at item 8 in Schedule 1.

Prior to making its decision, the panel questioned the need for the trial requirements to be in the consent, primarily because the decision on whether the EPA's applicable performance criteria had been met and the trial a success rested with the EPA through its licensing role under the Protection of the Environment Operations Act (POEO Act). It was also noted that the length of the trial period would be critical to ensure sufficient data is collected over a full 12-month period and that this was also a matter for the EPA.

The EPA would need to closely monitor the performance of the FOGO during the trial period and agree to any extension of operating hours (in the long term) via the operator's license. On this basis the panel considered the Environmental Protection Licence (12903) as the appropriate regulatory framework to monitor and determine the efficacy of the trial, and ultimately, whether operating hours should be extended in the long term. All the consent needs to do is enable the extended operating hours in perpetuity should the EPL permit them.

Following discussion between council and the EPA, the EPA agreed to pursue the trial through the operator's Environmental Protection Licence (12903) removing the need to have the trial requirements in the consent beyond the extended operating hours. It is noted that the EPA can review and amend a license far more readily than a consent can be amended. Council subsequently provided updated draft conditions of consent to the panel on 27 March 2025 to reflect this position.

Application for modification of consent

The panel determined to approve the modification application pursuant to section 4.55 (2) of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The panel determined to approve the application for the following reasons, including those outlined in the Council Assessment Report and Supplementary Report dated 27 March 2025:



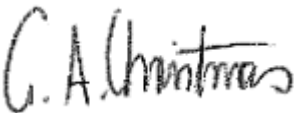
1. The proposal is substantially the same development as that approved.
2. The impact of the proposal as amended is considered acceptable.
3. The proposal remains consistent with the zone objectives.
4. The panel remains satisfied that the impacts associated with the proposed development can be adequately mitigated through the imposition of conditions and that the proposal is in the public interest

CONDITIONS

The application was approved subject to the conditions contained within the Council's Supplementary Report and uploaded to the portal on 27 March 2025 and titled **Attachment A2 – Modified Conditions of Consent**.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Juliet Grant
 Grant Christmas	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-449 – SHELLHARBOUR – DAM0118/2024
2	PROPOSED DEVELOPMENT	Modification to DA 7.2014.523.1 – (Dunmore Resource Recovery Development) – Modification to extend the operating hours at the FOGO facility
3	STREET ADDRESS	44 and 58 Buckleys Road SHELLHARBOUR 2529 (Lot 1 DP 491907, Lot 1 DP 110135, Lot 21 DP 653009)
4	APPLICANT/OWNER	Re.Grow Operations (Shellharbour) Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.56 Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Resources and Energy) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ Shellharbour Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Shellharbour Development Control Plan 2013 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • 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: 10 March 2025 • Supplementary information received: 27 March 2025 • Written submissions during public exhibition: 0 • Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 17 December 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas, Graham Rollinson ○ <u>Council assessment staff</u>: Jacob Lia, Maddeline Cartwright and Matt Rawson ○ <u>Applicant representatives</u>: Jacqueline Ong (Re-group), Aaron Azzopardi (Re-Group) ○ <u>DPHI</u>: George Dojas, Nikita Lange • Final briefing to discuss council's recommendation: 18 March 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas ○ <u>Council assessment staff</u>: Jacob Lia, Matt Rawson ○ <u>Applicant representatives</u>: Jacqueline Ong (Re-group), Aaron Azzopardi (Re-Group) ○ <u>DPHI</u>: Amanda Moylan

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and Council Supplementary Information provided on 27 March 2025