

DATE OF DEFERRAL	22 December 2022
DATE OF PANEL DECISION	22 December 2022
DATE OF PANEL MEETING	13 December 2022
PANEL MEMBERS	Garry Fielding (Chair), Graham Brown, Brian Kirk
APOLOGIES	None
DECLARATIONS OF INTEREST	Sandra Hutton, Clive McCarthy, Lauren Trembath

Papers circulated electronically on 6 December 2022.

MATTER DEFERRED

PPSWES-82 – Oberon – DA10.2021.19.1 – 310 O’Connell Road, Oberon

Development Application No. DA10.2021.19.1 seeks approval for the purpose of Recreation Facility (outdoor) and sports clubhouse, incorporating a registered club, tiered seating, changerooms and amenities. The subject site is known as 31 O’Connell Road, Oberon, comprising of Lots 2 DP 1073827 and 5 DP 2364.

The Applicant is Damian O’Shannassy, a council officer on behalf of Oberon Council and the owner of the site is Borg Panels Pty Ltd.

Development Application No. DA10.2021.19.1 seeks approval for the staged development of:

- 2 full sized rugby fields;
- 1 hockey field;
- 3 netball courts;
- Licensed Club including change rooms, amenities and tiered spectator seating;
- Walking/cycling perimeter pathway and fitness stations;
- Amenities and maintenance facilities;
- Car and bus parking facilities;
- Children’s playground
- Earthworks, storm water drainage, landscaping and lighting.

BACKGROUND

Development Application No. DA10.2021.19.1 was lodged on the Planning Portal on 11 May 2021.

A briefing and site inspection was held on 28 July 2021 and the following matters were discussed:

- Car parking details;
- Provision of essential services;
- Future council ownership of the site;
- Permissibility of the licensed club;
- Additional information landscaping, disabled access.

The panel requested the above issues to be addressed by August 2021 to allow a Determination by the end of 2021.

A further briefing and site inspection was held on 7 June 2022 and the following matters were discussed:

- The application is linked to a land swap between the council and the owner, Borg Panels Pty Ltd and ongoing discussions are restricting the progress of the development application;
- The desire of the council to amend the development application to a Concept DA;
- Permissibility of the licensed club;
- The Development Application had not progressed in any meaningful way since the earlier briefing on 28 July 2021.

The Panel requested information from the Applicant regarding how it proposes to progress the Development Application to a determination. Comments from the Council must be provided within 14 days from the date of this briefing; that is 21 June 2022.

An Electronic Determination was held on 13 December 2022. A Council Assessment Report was provided as well as other document and placed on the Planning Portal on 5 December 2022. The Council Assessment Report sought approval for a Concept Development Application.

REASONS FOR DEFERRAL

The Panel initially advised the Applicant that, given the length of the time the application had been with the Council and that little progress had been made on its progression to a Determination, then the application should be withdrawn, or the application determined on the information available at the time. This would most likely result in a refusal.

The Panel reluctantly agreed to a deferral to allow the Applicant to address the shortcomings in the amendment to a Concept DA. In coming to this decision, the Panel was mindful of the significant public benefit of the application, the work already undertaken by the Applicant, and the availability of the grant funding for the Applicant. The Panel indicated that a Determination of the application would be arranged in March 2023.

Matters that must be addressed, but not exclusively, are:

1. Clause 55(1) of the Environmental Planning and Assessment Regulation 2000 requires an agreement has to be made with the Panel (Consent Authority) to allow the development application to be amended to a Concept DA. Clause 55 EP&A Reg 2000 states:-

55 (1) A development application may be amended or varied by the applicant (but only with the agreement of the consent authority) at any time before the application is determined, by lodging the amendment or variation on the NSW planning portal.

2. Concept DA to include a plan that identifies the proposed staging and what stages, if any, the Concept DA is seeking approval for.
3. Concept DA is to include the staging to indicate all the necessary works required for that stage to operate independently of any other future stages.
4. Concept DA is to include indicative designs and plans to demonstrate how all the proposed development stages can be ultimately constructed, eg. road widening, and sufficient area to accommodate car parking provision etc.
5. Confirmation that a Public Meeting is required given that the 11 submissions are all “unique” submissions.
6. Whether ‘registered club’ is able to receive consent as an ancillary development to the overall sporting facility.



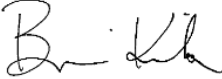
In respect of matter 6, above, the Panel has received legal advice from DPE that, based on the current DA information and relevant case law, the registered club is most likely a separate and independent use even if it is ancillary to the sporting complex. This is due to the proposed hours, the size of the club and the fact that there will be poker machines and alcohol served on the premises, and that functions may be held for separate or unrelated purposes to the sporting activities. However, it is always open to the Council to provide further information to support its claim that the registered club is ancillary and subserves the

dominant use of the recreation facility (outdoor). The Panel will then consider whether it is persuaded of this position.

The Panel expects revised information as referred to above will be submitted to the Panel via the Planning Portal by 27 February 2023 for Determination before the end of March 2023. If revised information from the applicant is not provided by 27 February 2023, the Panel may move to determine the DA based on the information currently at hand, including the Council Assessment Report sought for the Concept DA.

When this information has been received, the Panel will expect a supplementary assessment report from Council responding to the matters raised above and any other necessary matters.

The decision to defer the matter was unanimous.

PANEL MEMBERS	
 Garry Fielding (Chair)	 Graham Brown
 Brian Kirk	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-82 – OBERON – DA10.2021.19.1
2	PROPOSED DEVELOPMENT	<p>Recreation Facility consisting of:</p> <ul style="list-style-type: none"> • 2 full sized rugby fields; • 1 hockey field; • 3 netball courts; • Licensed Club including change rooms, amenities and tiered spectator seating; • Walking/cycling perimeter pathway and fitness stations; • Amenities and maintenance facilities; • Car and bus parking facilities; • Children’s playground • Earthworks, storm water drainage, landscaping and lighting.
3	STREET ADDRESS	310 O’Connell Road, Oberon
4	APPLICANT/OWNER	<p>Applicant: Damian O’Shannassy – Oberon Council</p> <p>Owner: BORG Panels Pty Ltd</p>
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 (Transport and Infrastructure) 2021; ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021; ○ State Environmental Planning Policy (Resilience and Hazards) 2021; ○ Oberon Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Oberon Development Control Plan 2001 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: cl 55(1) • Provisions of the <i>Environmental Planning and Assessment Regulation 2021</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 December 2022 • Written submissions during public exhibition: 11
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 28 July 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Graham Brown ○ <u>Council assessment staff</u>: Jaclyn Burns (Consultant), Damien O’Shannassy (Applicant) ○ <u>DPE</u>: Carolyn Hunt, Kim Holt

		<ul style="list-style-type: none"> • Site Visit and Briefing: 7 June 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Graham Brown (Acting Chair), Brian Kirk, Anthony McBurney ○ <u>Council assessment staff</u>: Jaclyn Burns (Consultant), Bennett Kennedy, Damien O'Shannassy (Applicant) ○ <u>DPE</u>: Sung Pak • Final briefing to discuss council's recommendation: 13 December 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Graham Brown and Brian Kirk ○ <u>Council assessment staff</u>: Jaclyn Burns (Consultant), Bennett Kennedy, Chris Schumacher, Damien O'Shannassy (Applicant) ○ <u>DPE</u>: Sung Pak
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report