

DETERMINATION AND STATEMENT OF REASONS

WESTERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	19 April 2023
DATE OF PANEL DECISION	19 April 2023
DATE OF PANEL MEETING	4 April 2023
PANEL MEMBERS	Garry Fielding (Chair), Graham Brown and Brian Kirk
APOLOGIES	None
DECLARATIONS OF INTEREST	Clive McCarthy, Lauren Trembath, Helen Hayden

Papers circulated electronically on 21 March 2023.

MATTER DETERMINED

PPSWES-82 – Oberon – DA10.2021.19.1 – 310 O’Connell Road, Oberon, Oberon Sporting Complex (Recreation facility) – Concept DA (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

The panel determined to approve the concept development application except Stage 2, pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The panel determined to approve the application, generally for the reasons outlined in the council assessment report. The Panel did not accept that the construction of a “Registered Club” was ancillary or subservient to the dominant use of a sporting complex as suggested by the Applicant based on legal advice from the Department of Planning & Environment. The Panel concluded that the “Registered Club” was not permissible under the current zoning and Stage 2 must not commence until a “Registered Club” was a permissible use on the site. The Panel understood that the Council would quickly commence a Planning Proposal to achieve this outcome.

To ensure that the worthy project was not lost to the local community, a new condition (Condition 3A) was proposed that effectively limits the Concept DA to Stage 1 until the Planning Proposal that allows Stage 2 to proceed is finalised.

CONDITIONS

The s.4.22 concept development application was approved subject to the conditions ~~14~~ in the council assessment report with the following amendments.

- New Condition 3A to read:

3A. Pursuant to s4.22(4)(a) of the EP&A Act 1979, consent to the Stage 2 development shall not be granted until a "registered club" is permitted development on the subject land following an amendment to Oberon Local Environmental Plan 2013.

- Amend Condition 10 to read:

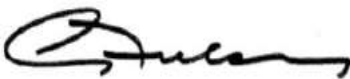

10. An Operational Management Plan shall be provided to the consent authority and approved by the consent authority with the development application for Stage 2. The Sporting Club Management Plan shall detail, to the satisfaction of the consent authority, how the licensed club facilities will be provided and managed in conjunction with the operation of the recreation facility and the protection of the amenity of the area.
- Amend Condition 14 under the heading “**Stormwater Management - Detention and Harvesting**”.
14. A Stormwater Management Plan including a hydrological study shall be provided to the consent authority with the first stage development application. The stormwater management plan shall comply with the following:
 - (a) Stormwater shall be disposed of through a piped system designed in accordance with *Australian Standard AS 3500* by a suitably qualified professional. The design shall be undertaken by a practicing Civil Engineer deemed to be suitably experienced by Council and qualified so as to be accepted as a Member of the Institution of Engineers Australia or a Registered Surveyor deemed to be suitably experienced by Council shall be accepted as qualified to prepare plans for drainage works (excluding flood control structures and bridges). Qualifications demonstrating the above may be requested by Council. Stormwater detention measures shall be designed to ensure the development does not increase upstream or downstream flood levels for all recurrence intervals up to and including the 1% Annual Exceedance Probability.
 - (b) The hydrological study will determine the detention storage shall be calculated and designed in accordance with *Australian Rainfall and Runoff 2019*.
 - (c) Stormwater harvesting measures shall be incorporated into the development, including rainwater tank details, pump details and reticulation diagrams.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Extend Herborn Street along the southern boundary to enable further subdivision of the allotments in Scotia Avenue as part of this development.
- Management of impacts offsite, such as construction noise and dust.
- Management of site safety and security.
- Management of dust, construction noise and general noise associated to the operation of the club.
- Impacts associated to lighting and spill of Light.
- Site landscaping.
- Consideration of boundary fencing for site safety and security for neighbouring dwellings.
- Consideration to include the Hockey Fields into the first stages of development.
- Design considerations to improve the proposed facility.

The Panel considers concerns raised in submissions have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
	
Garry Fielding (Chair)	Brian Kirk



Graham Brown

SCHEDULE 1

1	PANEL REF – LGA – DA NO.	PPSWES-82 – OBERON – DA10.2021.19.1
2	PROPOSED DEVELOPMENT	<p>Oberon Sporting Complex (Recreation facility) – s.4.22 Concept Development comprises:</p> <ul style="list-style-type: none">• Recreation Facility (Outdoor) comprising:<ul style="list-style-type: none">○ 2 full sized rugby fields○ 1 hockey field○ 3 netball courts• Ancillary building comprising: a Registered Club (upper floor), change rooms, office, storage rooms, change rooms, first aid / physio room, amenities, and tiered spectator seating.• Walking/cycling perimeter pathway and fitness stations.• Amenities and maintenance facilities• Car and bus parking facilities comprising 146 spaces (142 standard car parking spaces and 4 accessible parking spaces), and an additional area for 100 overflow car parking spaces.• Children’s playground• Earthworks, site access, storm water drainage, landscaping, and lighting. <p>The proposed stages are:</p> <ul style="list-style-type: none">• Stage 1 – construction of the sporting fields and lighting, site access road and associated intersection, earthworks (including site drainage and on-site detention), temporary car park (including 146 spaces), temporary amenities and change rooms, sewer, and pump room.• Stage 2 – construction of the registered club.• Stage 3 – construction of the permanent carpark (and overflow) and landscaping.• Stage 4 – construction of netball courts.• Stage 5 – construction of hockey fields and formalised field access.• Stage 6 – construction of playground facilities, pathways, and fitness stations
3	STREET ADDRESS	310 O’Connell Road, Oberon
4	APPLICANT/OWNER	Applicant: Damian O’Shannassy – Oberon Council Owner: BORG Panels Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none">• Environmental planning instruments:• 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>: Nil [or enter the clauses if relevant] • 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: 21 March 2023 • 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) ○ <u>Applicant</u>: Damien O'Shannassy (Applicant) ○ <u>DPE</u>: Carolyn Hunt, Kim Holt • 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), ○ <u>Applicants</u>: Bennett Kennedy, Damien O'Shannassy ○ <u>DPE</u>: Sung Pak • Briefing and Deferral: 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) ○ <u>Applicant</u>: Bennett Kennedy, Chris Schumacher, Damien O'Shannassy ○ <u>DPE</u>: Sung Pak • Final briefing to discuss council's recommendation: 04 April 2023 <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) ○ <u>Applicant</u>: Damien O'Shannassy, Bennett Kennedy, Chris Schumacher, Garry Wallace ○ <u>DPE</u>: Sung Pak
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report