

COUNCIL ASSESSMENT REPORT

WESTERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSWES-97 - PAN-111651 - DA10.2021.49.1
PROPOSAL	Composting and Landscape Supply Facility
ADDRESS	Lots 33-34 DP 1228591 & Lot 18 DP 1249431 24 & 26 Endeavour Street OBERON 68 Hawken Street OBERON
APPLICANT	Bettergrow Pty Ltd C/- Shaun Smith, Space Urban
OWNER	Mr John Borg, Mr Michael Borg (Borg Panels Pty Ltd, Woodchem Pty Ltd, Plantation Pine Productions Australia Pty Ltd)
DA LODGEMENT DATE	08.07.2021
APPLICATION TYPE	Integrated & Designated Development
REGIONALLY SIGNIFICANT CRITERIA	Clause 7 Particular designated development of <i>Schedule 7 Regionally significant development</i> of the SEPP (State and Regional Development) 2011 includes (c) 'waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 of the EP&A Regulations 2000'. Clause 32(1b) of Schedule 3 of the EP&A Regulations 2000 identifies development that (iii) have an intended handling capacity of more than 30,000 tonnes per year of waste such as ...wood,...or' as Designated Development, therefore an EIS is required to be lodged. Clause 32(1d) also provides that facilities that are located (vi) within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic are also identified as Regionally Significant Development
CIV	\$12,450,000 (excluding GST)
CLAUSE 4.6 REQUESTS	N/A

KEY SEPP/LEP	• SEPP (Infrastructure) 2007 • SEPP (Koala Habitat Protection) 2021 • SEPP 33 Hazardous and Offensive Industry • SEPP 55 Remediation of Land • Oberon Local Environmental Plan 2013 • Oberon Development Control Plan 2001
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	Exhibition Period: 5 August 2021 – 2 September 2021 2 submissions (APA Group and NSW National Parks & Wildlife Service)
DOCUMENTS SUBMITTED FOR CONSIDERATION	• Council Assessment Report with • Attachment A Draft Conditions of Consent 15 August 2022 • Attachment B: Site Visit images
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	SIC does not apply
RECOMMENDATION	Approval subject to conditions of consent
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	23 August 2022
PLAN VERSION	
PREPARED BY	Bennett Kennedy
DATE OF REPORT	15 August 2022

EXECUTIVE SUMMARY

Proposed Development

The Development Application was lodged on 8 July 2021 and seeks approval for a *Composting and Landscaping Supplies Facility*. The subject site is Lots 33-34 DP 1228591 & Lot 18 DP 1249431 known at 24-26 Endeavour Street, and 68 Hawken Street, OBERON.

The proposed development is defined as a type of '*Waste or Resource Recovery Facility*', and is Designated Development, Integrated Development and Regionally Significant Development under NSW Government planning legislation.

The NSW Planning Portal quantifies the volume of material to be processed and recycled as up to 99,000 tonnes of non-putrescible waste material per annum (tpa). Because the application intends to process under 100,000 tonnes of waste per year, it is Local Development, and is not classified as State Significant Development.

The proposed waste deliveries include the following:

- 50,000 tpa Garden organics: organic material from Council collections or commercial garden organic waste;
- Pine bark: waste from sawmill operations and timer panel manufacture.
- Sawdust: from Borg's timber panel manufacture.
- Clean waste wood: including pallets and clean source-separated timber from building sites; and
- 5,000 tpa Wood ash: from Borg's boiler furnace at the timber panel manufacturing factory.

The organic material is to undergo composting operations (including windrow composting), to produce garden and landscaping compost products. The wood materials are to undergo mulching to produce garden and landscaping mulch products.

The project has an estimated Capital Investment Value of \$12,450,000 (excluding GST).

Site History

This specific part of the subject site is undeveloped but has a previous approval (10.2019.43.1) granted by the JRPP (20 December 2019) for a *Landscaping Supplies facility* to process of up to 99,000 tpa of wood products to mulch. This was Designated Development under EP&A Regulations 2000, Schedule 3 (Cl. 32) for '*Waste management facilities or works*' therefore an Environmental Impact Statement was also required for this application.

The current Development Application is similar to that previously approved as Designated Development under Cl. 13 for '*Composting facilities or works*', but has been lodged as a new Development Application. The current application was originally lodged as a modification to DA 10.2021.43.1, however because *Composting facilities or works* require new approvals from the Environmental Protection Authority (EPA) the proposed works are considered not to be '*substantially the same development*' under S4.55 of the EP&A Act, 1979.

Immediately to the west of the identified site, on the remainder of Lot 34 DP1228591 and a small portion of Lot 33 DP 1228591, Council granted development consent on 9 June 2020 for the use of this part of the site for a *Hardstand Storage Yard*. This site is operated by

Australian Native Landscape (ANL – a Borg company) whom use the approved *Hardstand Storage yard* for the purpose of storage of materials including shredded organic waste from the adjacent Borg manufacturing plant immediately to the west. It should be noted that the adjacent site has direct access to the subject site provided in the south wester corner.

Submissions

The subject development application was placed on community consultation from 5 August 2021 – 2 September 2021, with two submissions received. One was from APA Group, who did not raise concerns with the proposed development as it was not in the immediate vicinity of the Oberon gas line. The second was from NSW National Parks and Wildlife Service, which raised concerns regarding the impacts of the development on their adjacent depot site.

As Integrated Development the application was referred to:

- NSW Environment Protection Authority
 - o Integrated Development under *Protection of the Environment Act*
 - o Raised concerns with noise, water management and onsite retailing
 - o Provided General Terms of Approval (GTA's) on 11 March 2022
- Transport for New South Wales
 - o Referral under *State Environmental Planning Policy (Infrastructure) 2007*
 - o Provided recommended conditions for vehicle movement and conduct
- Department of Planning Industry and Environment
 - o Referral in accordance with Clause 81 of the EP&A Regulations
 - o Copies of submissions were sent, a response received dated 30 March 2022
- NSW Police
 - o Referral in accordance with Councils Memorandum of Understanding
 - o Raised no concerns with the development.

Key Matters for Consideration

These are discussed in more detail in Section 5 of this report.

Potential to exceed the capacity of the subject site to operate as a *Composting and Landscape Supply facility*

There are three (3) aspects to this topic: Legislated Capacity; Conditions of Consent and Effective measurement and monitoring of input materials. These aspects are discussed in more detail in Section 5 of this report.

Vehicle Movement and Traffic

From the information provided that it will be necessary for haulage vehicles to exit the site and re-enter so that input material can be measured accurately. This aspect is discussed in more detail in Section 5 of this report.

Water Management

The management of On-site Stormwater flows is a significant issue for this site, particularly given the nutrient loading of run-off and the cumulative loading from being recycled on-site. Although the capacity of the On-site Detention Basin has been increased, conditions of consent have been included to minimise the impact on surrounding lands and water ways. This aspect is discussed in more detail in Section 5 of this report.

Environmental Impacts

The volume of material input and the concentration of natural elements and nutrients in the composting and landscape supply processes provide a significant potential for amenity impacts to be experienced by receptors outside the site boundaries. A number of measures have been included to avoid and mitigate these impacts. It is considered that if the volume of material remains at a level below the level required by the legislative framework, environmental impacts of the development will be contained. This aspect is discussed in more detail in Section 5 of this report.

Recommendation

Notwithstanding the above concerns and the significant potential for environmental and amenity impacts in the surrounding locality, it is considered that if the proponent maintains their diligence in monitoring the operational environment and specifically the volume of material input, on balance the proposed development would be in the public interest.

1. THE SITE AND LOCALITY

1.1 The Site

The primary operational area of the subject site occupies 30.553 Hectares of Lot 34 DP 1228591 and 16.018 Hectares of Lot 33 DP 1228591 as the primary operational area. All 4.183 Hectares of Lot 18 DP 1249431 provides access to the operational area and site office. The subject site has a split zoning comprising IN1 General Industrial and RU1 Primary Production. The site is 181.5m along the northern boundary, 251.7m along the eastern boundary with an access handle of approximately 50m x 95m.

Parts of the site are highly disturbed with recent earthworks (not shown on latest aerial imagery), and other parts of the site remain undeveloped, with grass and vegetation. There are no structures or existing development on the site. The storage of equipment and machinery as noted within the EIS and Contamination report were not present on the site visit. Refer to Attachment B Site Visit Summary.



Figure 1: Aerial Image and dimensions of subject site.

We can see from the approved plan of that DA, which is currently operational, that although there is no approved access to the subject site provided in the south eastern corner, there are additional exit and entry points provided to Endeavour Street. It is worth noting that both of these access points do not have weighbridges.



1.2 The Locality

The site is within Oberon's industrial precinct identified by the zoning of the site and surrounding lands, with industrial development adjacent to the south and west of the subject site. The BORG Panel facility and the Australian Native Landscape site are directly west of the site. A soil quarry is located directly east of the subject site approved under 10.2019.19.1

The industrial precinct comprises a number of smaller scale uses, including the NSW National Parks & Wildlife Service Kanangra Depot site, which is directly east of the site (Lot 9 DP 1126195). Other uses in the vicinity include automotive repair shop and car hire, to the south of the site. Land to the east is zoned RU1 Primary Production, containing farmland and rural residential development.

Oberon Town Centre is approximately 1km southwest of the site, with residential zoned land 472 metres to the south and rural to the east. The closest residential receiver is less than 500m south of the site on the southern side of Albion Street. Other sensitive receivers in the vicinity of the site include caravan parks located on 15-19 Albion Street & 7-9 Cunningham Street, a café at 66 Albion Street, and managers residence at 45-51 Albion Street.



Figure 3: The subject site locality and context.

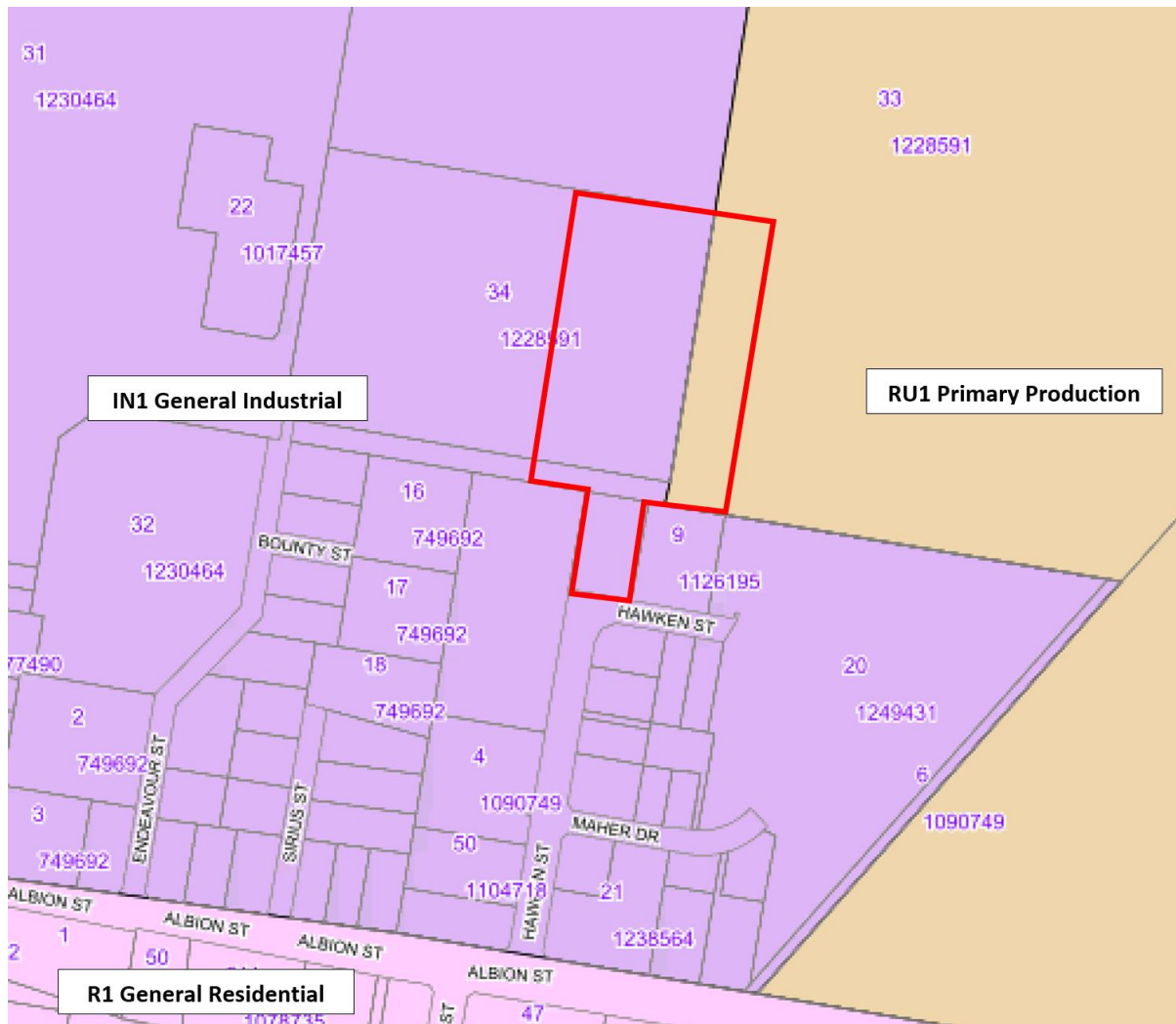


Figure 4: Location of the proposed Compost and Landscape Supplies Facility.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposed *Waste and Resource Recovery Facility* intends to process and recycle up to 99,000 tonnes of organic (non-putrescible) and wood waste material per year. This includes up to 50,000 tonnes per annum of garden organics, up to 5,000 tonnes per year of wood ash, and the remainder being wood products from the immediately adjacent Borg facility.

The proposed wastes to be processed include the following:

- Garden organics: organic material from Council collections or commercial garden organic waste;
- Pine bark: waste from sawmill operations and timer panel manufacture;
- Sawdust: from Borg's timber panel manufacture;
- Clean waste wood: including pallets and clean source-separated timber from building sites; and
- Wood ash: from Borg's boiler furnace at the timber panel manufacturing factory.

The organic material is to undergo windrow composting to produce garden and landscaping products. The wood materials are to undergo mulching to produce garden and landscaping mulch products. These products are NOT intended to be sold to the general public but exported in commercial quantities.

Development Application is for the use of the site as a *Waste and Resource Recovery Facility*, as well as the construction of the following:

- Main Entry and Exit via Hawken Street
- Separate access point via southwestern boundary (to 26 Endeavour Street)
- 1 x weigh bridge at Main Entry (input materials)
- 1 x weigh bridge with wheel wash via Main Exit
- Colourbond building containing site office (33.10sqm) and maintenance shed (313.90sqm)
- Car parking area (11 spaces, with 1 disabled space)
- Storage bays for wood and organic materials, with concrete blocks for separation
- Hardstand areas for composting operations (blending and screening area, maturation area and windrow composting area)
- Hardstand area for organic and wood processing area, with concrete blocks for separation
- 20KL Rain water tank
- 100KL Fire water tank
- 2 x water re-use storage tanks
- 5ML Onsite Detention Basin
- Diesel Tank and fuelling area
- Emergency quarantine and equipment cleaning area
- Earth mound surrounding the site
- Associated landscaping
- Associated stormwater works

The proposed Hours of Operation are as follows:

- Monday to Friday: 7am - 6pm
- Saturday: 8am - 1pm
- Sunday: Closed
- Waste deliveries from adjacent Borg Facility: 24 hours / 7 days a week
- Product transferred off-site: 24 hours / 7 days a week

Table 1: Development Data

Control	Proposal
Site area	50,670sqm
GFA	Building footprint: 347sqm; Total Hardstand: 29,000sqm
FSR (retail/residential)	N/A
Clause 4.6 Requests	No
Max Height	3.6m earth mounding surrounding site
Car Parking spaces	11 car parking (including 1 disabled)
Setbacks	30m from south to parking area. Earth mound to N/E/W boundaries

Also of note are two stormwater discharge points.

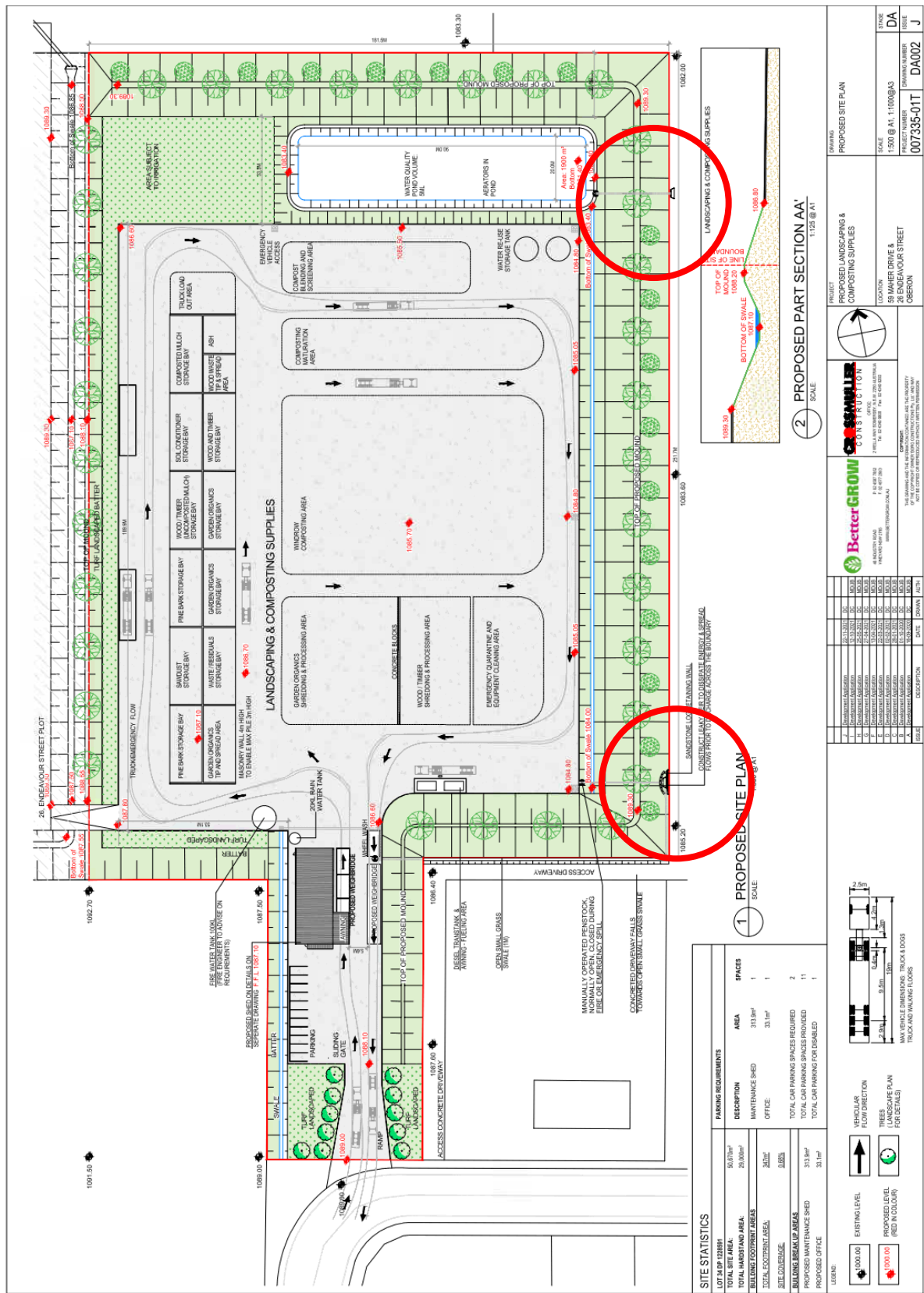


Figure 5: Proposed Site Layout

2.2 Background

A previous DA (DA 10.2019.43.1) was approved on the subject site by the Joint Regional Planning Panel on 20 December 2019 for a *Landscaping Supplies facility* to process of up to 99,000 tonnes of wood products per annum for mulch.

An application for a Modification of DA 10.2019.43.1 was initially lodged for the proposed use. This application received Secretary's Environmental Assessment Requirements (SEARS) on 11 December 2020. On 31st March 2021, a letter was sent to the applicant by Council advising that, because the proposed works involved *composting work*, new approvals from NSW EPA were required, and additional impacts to what was initially approved, therefore the submitted modification could not be considered as *substantially the same development* under S4.55 of the EP&A Act, 1979. Council staff subsequently met with the applicant on 20th April 2021 to discuss these considerations and recommend a new Development Application be submitted.

The new development application was lodged on 8 July 2021. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc) with the application:

Table 2: Chronology of the Development Application

Date	Event
8 July 2021	DA lodged
5 August 2021	Exhibition of the application
13 July 2021	DA referred to external agencies
7 October 2021	1 st Western Regional Planning Panel Assessment Briefing
12 October 2021	Request for Information from Council to applicant
26 November 2021	Applicant's response to previous request received.
7 June 2022	2 nd Western Regional Planning Panel Assessment briefing
5 July 2022	Additional information requested from Application
21 July 2022	Response to additional information request uploaded to NSW Planning Portal (BETTER~1.PDF)

3. STATUTORY CONSIDERATIONS

When assessing a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

It is noted that the proposal is considered to be Integrated Development (s4.46) and Designated Development (s4.10) under the EP&A Act, 1979.

These matters are further considered below.

3.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *SEPP (Koala Habitat Protection) 2021*
- *SEPP 33 Hazardous and Offensive Industry*
- *Oberon Local Environmental Plan 2013*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 3: Summary of Applicable State Environmental Planning Policies

EPI	Matters for Consideration	Comply (Y/N)
SEPP SRD 2011	Clause 20(1) declares the proposal as regionally significant development pursuant to Schedule 7, Clause 7 (Particular Designated Development).	Yes
Infrastructure SEPP	Clause 104(3) contains considerations for Traffic-generating development identified in Schedule 3 (Waste or Resource Recovery Facility of any size)	Yes
SEPP 55	Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	Yes
SEPP Koala	No Schedule 2 Feed Trees (koala habitat) are located on	Yes

2021	the site.	
SEPP 33	Proposed use fits within the definition of Potentially Offensive Industry, with impacts on noise, dust and odour.	Yes
OLEP 2013	Various considerations discussed below.	Yes

State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State and Regional Development) 2011 ('SRD SEPP') applies to the proposal as it identifies regionally significant development. In this case, pursuant to Clause 20(1) of SRD SEPP, the proposal is a regionally significant development. The development satisfies the criteria in Clause 7(c) of Schedule 7, as it is *development for waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000*. Accordingly, the Western NSW Planning Panel is the consent authority for the application.

Clause 32(1b) of Schedule 3 of the EP&A Regulations 2000 identifies development that *(iii) have an intended handling capacity of more than 30,000 tonnes per year of waste such as ...wood,...or* as Designated Development, therefore an EIS is required to be lodged.

Clause 32(1d) also provides that facilities that are located *(vi) within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic* are also identified as Regionally Significant Development.

N.B Under Section 23(3) of Schedule 1 of the now repealed SEPP (State and Regional Development) SEPP, *Development for the purpose of a resource recovery or recycling facilities that handle more than 100,000 tonnes per year of waste* are considered State Significant Development.

State Environmental Planning Policy (Infrastructure) 2007

Division 23 '*Waste or resource management facilities*' applies to this development. The proposed development is located within the prescribed zones, therefore is permitted with consent. This division does not specify additional criteria for the assessment of a waste or resource facility.

Schedule 3 Traffic Generating Development, classes all Waste or Resource facilities (of any size or capacity) as traffic generating development. Clause 104 requires that an application for traffic generating development is to take the following into consideration:

- *Any submission that RMS provides*
The application was referred to TfNSW, and their response contained recommended conditions of consent (vehicle movements, vehicle types, conduct and signage). The Draft consent has been conditioned accordingly.
- *The accessibility of the site concerned, including:*

- *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*

Vehicle movement will be restricted to 40 truck movements per day, as assumed in the supporting Transport Impact Assessment. TfNSW have conditioned requirements for vehicular movement along primary freight routes, and the EIS notes that 70% of deliveries will be from the local BORG facility, reducing impact on freight routes. Efficient movement through the site is achieved by one way traffic flow and separating the employee car parking and office area from the operational area.

- *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*

Very limited public transport is available to employees, and movement of freight by rail is not available for this application. With respect to the context and locality, the subject application is considered satisfactory in this regard.

- *any potential traffic safety, road congestion or parking implications of the development.*

The Traffic and Transport Study showed that based on the information provided local roads were capable of the additional capacity identified, without safety issues at intersections, increased congestion. Parking is considered appropriate for the number of employees.

State Environmental Planning Policy No. 55 – Remediation of Land

Council records note that 24-26 Endeavour Street is land used for industrial activity, which may require remediation and validation if a change of use is proposed. The site was historically used for agricultural grazing, and since 2016 has been used for storage of equipment and machinery. This was not visible on the site visit, and the site was partially highly disturbed with recent earthworks.

A Contamination Investigation (Envirowest, dated 1 March) has been prepared for the site. The report concluded that *‘levels of all substances evaluated were below the adopted thresholds for industrial land-use’* (p17). Topsoil and organic material was found onsite, and not part of the testing. The report recommended that the site is suitable for the proposed use with no remediation required, subject to the top soil material, machinery, equipment and chipboard is removed from the site.

As the Preliminary Investigation (desktop) and Detailed Investigation (soil sampling) did not require remediation works to occur, a Remediation Action Plan and Validation report is not required in this instance. Council is satisfied the requirements of this SEPP have been met.

SEPP (Koala Habitat Protection) 2021

The Oberon LGA does not have a Koala Plan of Management in place therefore assessment is conducted under Clause 11 of this SEPP. The site is greater than 1Ha, therefore assessment is required, and Council is to assess whether the development is likely to have any impact on koalas or koala habitat. A Flora and Fauna Assessment report (Narla Environmental, dated May 2021) is submitted as part of this application. All existing vegetation on site is proposed to be removed. The report noted that no Schedule 2 Feed Trees (koala habitat) are located on the site therefore further assessment under this SEPP is not required.

SEPP 33 Hazardous and Offensive Industry

The development is not considered to be potentially hazardous industry as per the definition within clause 3 of SEPP 33. However the development is considered to be an offensive industry due to the potential impacts of dust, odour and noise under the definition within the SEPP.

To ensure impacts on air quality (odour and dust) are minimised, the proposal seeks to:

- Implement storage practices (e.g. suitable moisture levels and minimise stockpiling overnight)
- Implement spill management procedures for immediate clean-up of spills
- Avoid significant handling of materials in poor weather conditions
- Maintain odour complaint book

To ensure that the noise and vibration levels emitted from the development are reasonable the proposal seeks to:

- Construct a 3.6m earth mound surrounding the site
- Restrict operating hours to daytime hours, preventing work on Sundays and public holidays

Despite the measures above, Oberon Council, NSW EPA and the submission by NPWS (in relation to adjacent depot) have raised concerns with the impact of dust, noise and odour on sensitive receivers in the vicinity of the site. The EIS did not consider all sensitive receivers, or the worst case scenario impacts of the development (detailed in assessment below).

In these circumstances, the matters of consideration by consent authorities as prescribed by clause 13 of this SEPP are as follows:

(a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and

- A Preliminary Hazard Analysis has been included as part of the EIS, under Chapter 7.

(b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and

- The application was referred to the EPA (Integrated development). The EPA requested additional information regarding noise mitigation during delivery (which has 24hr operations), as well as clarification regarding water management. The applicant provided a response and the EPA subsequently issued GTA's.

(c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and

- N/A, application is potentially offensive, not hazardous.

(d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and

- The development is for the recycling of waste materials, including materials from adjacent industrial developments, and processing to produce landscaping materials. These products would otherwise not be reused; therefore there is no other feasible alternative locations to carrying out the development.

(e) any likely future use of the land surrounding the development.

- The subject site primarily is within the Oberon industrial area. This area contains the BORG Panel facility and Australian Native Landscape facility, which will not be adversely impacted by the development. Other uses in the industrial area depots, car yards and retail premises which may be adversely impacted if the impacts of development are not managed.

Oberon Local Environmental Plan 2013

The aims of the LEP include

(a) to encourage sustainable economic growth and development in Oberon, and

(b) to encourage and provide opportunities for local employment growth and the retention of the population in Oberon.

The proposal is consistent with these aims because it is industrial development within the industrial precinct, providing employment opportunities and is a land use that is permitted with consent under the IN1 General Industrial land use table.

Zoning and Permissibility

The site is located within the IN1 General Industrial Zone and RU1 Primary Production Zone, pursuant to Clause 2.2 of the LEP.

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of 'waste or resource management facility'.

waste or resource management facility means any of the following—

- (a) a resource recovery facility,*
- (b) a waste disposal facility,*
- (c) a waste or resource transfer station,*
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).*

Under Division 23 of *State Environmental Planning Policy (Infrastructure) 2007*, the development of *waste or resource management facilities*, is permitted with consent on prescribed zones, which includes the RU1 Primary Production and IN1 General Industrial zones.

Therefore the proposed development is permitted with consent, despite the provisions of the Land Use Tables in the *Oberon Local Environmental Plan 2013*, which prohibit this use within the RU1 Primary Production zone.

The proposed use is consistent with the objectives of the IN1 General Industrial zone:

- It will result in land being used for industrial purposes.
- Development will result in employment opportunities; and
- Has been designed to minimise conflicts with surrounding land uses.

General Controls and Development Standards

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in Table 4 below.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (CI 4.1)	IN1: N/A RU1: 100Ha	N/A not proposing subdivision of lots	N/A
Height of buildings (CI 4.3(2))	Nil requirements	Highest point is the earth mounts of 3.6m	N/A
FSR (CI 4.4(2))	Nil requirements	0.57:1	N/A
Land acquisition (CI 5.1)	Nil requirements	N/A	N/A
Heritage (CI 5.10)	Requirements for Heritage Item & Conservation Areas	Does not contain a listed item, and in not in the vicinity of an item or HCA	N/A
Flood Planning (CI 5.21)	Requirements for Flood Prone Land	No flood mapping in the LEP	N/A
Earthworks (CI 6.1)	Various considerations for cut and fill	Discussed below	Yes
Riparian Land (CI 6.3)	40m distance from watercourse	No watercourses are mapped within the site area. Kinds Stockyard Creek is in the vicinity of the site. Impact on watercourse is assessed below.	Yes
Essential Services (CI 6.4)	Requirement to connect to all necessary services.	Connection to reticulated water and sewerage is proposed. Stormwater is proposed to be contained within the site by means of 5ML OSD however it is understood overflow discharges are to be via a 'Leaky weir' across the adjoining Lot 33 DP 1228591. Conditions of consent have been provided by the EPA to monitor and measure the quality and quantity of these discharges. Electricity is available to the site, and vehicular access is via Hawken Street. A S68 Application has been lodged for connection of the site to the reticulated sewer network.	Yes
Development within a designated buffer (CI 6.6) See Figure 5	Acoustic Attenuation Measures	The site is located within the Industrial Buffer area. The intent of this notation in the OLEP 2013 is to Inform land uses, that establish within this zone, that a Heavy Industry operates within it. In the current circumstances, the proposed development is considered to be	Yes

		consistent with the operational environment within the delineated buffer area.	
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Clause 6.1 Earthworks: earthworks are proposed for the development, as such assessment under this clause is required.

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

- Cut and fill across the site is for the purposes of managing stormwater drainage within the site (including for the development of an OSD basin), and for the creation of earth mound surrounding the site boundary. The existing ground level on adjoining sites is to remain the same.
- Stormwater measures have been included across the site (swales and leaky weir) to manage impacts of stormwater. Landscaping over the earth mounds (including its maintenance) will support soil stability for the mound.

(b) the effect of the development on the likely future use or redevelopment of the land,

- Proposed earthworks are ancillary to the proposed use of the site as a water or resource recovery facility. The earthworks do not stop the redevelopment of the site in the long term, or impact upon the development of adjoining industrial or rural land.

(c) the quality of the fill or the soil to be excavated, or both,

- The application is supported by a preliminary contamination investigation, which identifies that the site does not require remediation of the site.

(d) the effect of the development on the existing and likely amenity of adjoining properties,

- Adjoining properties do not contain sensitive receivers and consist of rural or industrial zoned land. Earthworks for the purposes of stormwater management will not result in adverse impacts on adjoining properties. Earthworks for the earth mound will be visible from residential areas, however is for the purpose of noise mitigation, therefore visual intrusion of landscaped mound is considered acceptable.

(e) the source of any fill material and the destination of any excavated material,

- VENM fill has been conditioned.

(f) the likelihood of disturbing relics,

- AHIMS search by applicant (4 May 2021) found no Aboriginal sites or places within the search area.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

- Application is supported by Water Impact Assessment, detailed below.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

- Landscaping, including watering and maintenance, is proposed for the earth mound. The intent of the mound is to mitigate the impacts of the overall development of the locality.

Clause 6.6 Development within a designated buffer

Clause 6.6 of the OLEP is to inform future land uses that there may be impacts on their operation due to their proximity to the existing industry being the Borg MDF manufacturing plant. In the circumstances of the subject application, the proposed land use will be compatible, if not ancillary, to the existing industry and therefore is considered to be compatible with it.

Clause 6.6 (3d) however requires the consent authority to consider *(d) whether the development is likely to adversely affect the operational environment of any existing development on the land to which this clause applies.*

The submission from the NPWS Depot is in such close proximity to the subject site that there is a potential for noise odour or emissions to impact on their operations. These impacts are discussed below in Section 4 of this report.

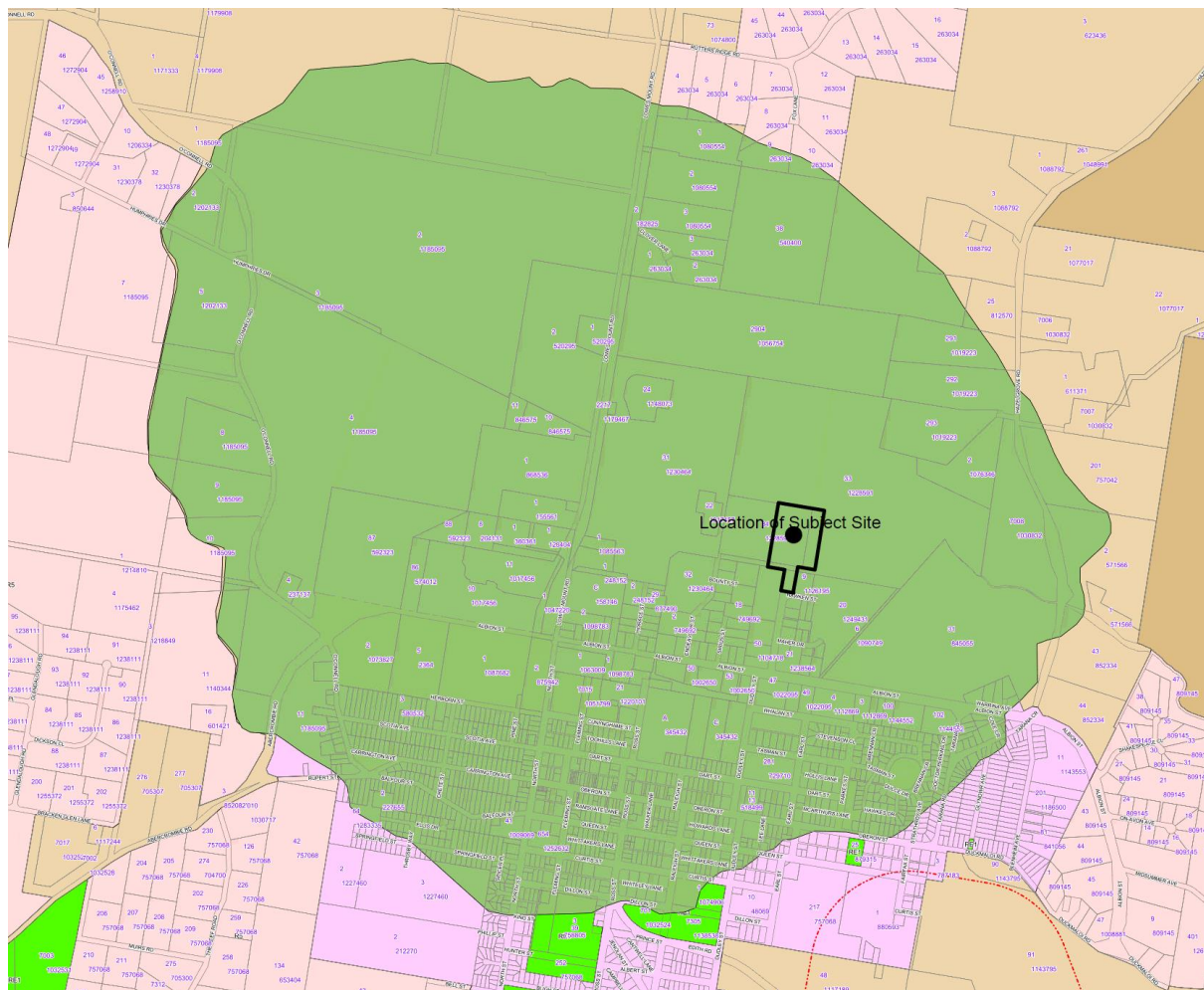


Figure 5: The location of the subject site within the Clause 6.6 Industrial Buffer Area.

On balance, the proposal is considered to be generally consistent with the LEP. Any issues not addressed in the applicant's response have been addressed via conditions of consent.

3.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no draft environmental planning instruments applicable to the proposal.

3.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The *Oberon Development Control Plan 2001* ('the DCP') is relevant to this application. The development is generally consistent with the DCP requirements.

A.2.1 – General Policy

- The development is not located on land which is deemed to be prime crop and pasture land. The portion of RU1 zoned land is not considered to be of high quality, and the majority of the development is located within the IN1 zone.
- The development is located within the IN1 zone and a small portion on the edge of the RU1 zone which reduces the potential for complaints in relation to farming practices on the remaining RU1 land.
- The non-agricultural development is carried out so that it minimises:
 - Land degradation via the containment of the materials and stormwater within the site boundaries;
 - The stormwater capture within the site should ensure that drainage patterns surrounding are not significantly altered.
 - During testing, groundwater was not found within 2.5m of the surface. As water is being kept within the site, there is no adverse anticipated impacts on groundwater.
 - Organic waste from a range of sources, particularly garden organics, carries a risk of pathogens, diseases, pests and weeds. Mitigation measures have been included within EIS, including separation of organic material from wood material, and wheel wash at the site exit.
 - The nature of the activities is likely to slightly increase the chance of bushfires. The firefighting utilities within the design are considered to be appropriate in being able to readily contain any potential fire within the site.

A.2.6 – Specific Aspects

- a) The location of the site predominantly on IN1 General Industrial land, with a small portion on RU1 Primary Production land will ensure that fragmentation of prime crop and pasture land will not occur.
- b) The development is a concentration of a non-agricultural use, as it is partly on rural land, and adding to the overall Oberon industrial area. This is acceptable as the industrial zone is the predominant zone across the site, the use of rural land for industrial purposes will not restrict farming or forestry practices in the area, and services are available to the site.
- c) N/A as dwelling is not proposed.
- d) The development meets the following in relation to land degradation:
 - i. The development area is already predominantly cleared, as is surrounding land.
 - ii. Development is not required to be phased.
 - iii. All excavation work will be used within the site, e.g. for the earth mound, or for processing.
 - iv. Drainage design is incorporated in the overall design of the facility, including at the construction phase, where the OSD is to be used as a temporary sediment basin.
 - v. Sedimentation is not likely result once the development is operational, however the OSD will be used as a temporary sediment basin during construction. The earth mound will be landscaped, to reduce sedimentation.
 - vi. The berm is to vegetated to reduce erosion and sedimentation.
- e) No water tanks will be visually prominent from outside the development site.
- f) No buffer distances apply to the site.

A.3.1 – Flooding

It is not deemed that the subject site is at considerable risk of flood and the subject land is not recognised by Council records as being liable to flood. The Onsite Detention Basin will ensure that the flood risk is further minimised.

A.3.2 – Bush Fire

The development has a minimal bush fire risk and is not mapped as being bushfire prone.

A.4.2 – Stormwater Drainage

Stormwater is primarily to be stored onsite, within the Onsite Detention Basin. A leaky weir is proposed on the eastern boundary, intended to provide a controlled release of a small extent of non-operational runoff from the site. The applicant has continually contended that there will be no discharges from the site however discharge points to overland flow have been retained.

A.4.3 – Building Setback from Roads

The development is setback from the road over 20 metres as required by this control.

Part D – Commercial & Industrial Development

○ D.4.1 Building Setback

The site office and maintenance shed building is located further than 6 metres and therefore complies. Car parking starts at approximately 15m from the front (south) boundary.

○ D.4.2 Building Façade

The site office and maintenance shed building is located greater than 30m from the found boundary, therefore will not have a strong relationship with the public domain and existing streetscape.

○ D.4.5 Access Driveways

The development allows for both cars and trucks up to 26m B-double to enter and exit the site from a public road in a forward direction. Access design has been conditioned.

○ D.4.7 Signs

A traffic signage plan has been included as part of this application. The application does not include propose additional signage. Of note, signage located at the access point in the south western corner of the site is identified as two way signage indicating entry and exit by delivery vehicles through this point.

Part F – Vehicle Circulation & Parking

The DCP requires 0.75 car parking spaces per employee, per shift. A total of 7 employees per shift are anticipating, requiring a total of 6 car parking spaces under the DCP. The application provides 11 spaces, including 1 disabled space, which is acceptable.

F.7 Design, Access and Construction

- Materials: The car parking is a hardstand space within the front setback area.
- Disabled: 1 disabled parking spot is provided.
- Landscaping: Turf and vegetated area within the front setback will screen the car parking area from the streetscape.
- Signs: A traffic signage plan has been included as part of this application.
- Access: Employee access is provided at the front of the site, using access off Hawken Street. Pedestrian movements are separated from vehicular movements, as the car parking also corresponds with the site office and maintenance shed design

(eg entry points to building). Access design from Hawken Street and through the site provides for adequate sight distances, and minimal traffic implications e.g. queuing on the street.

H.3 – Community Consultation – Development Applications

The development was notified to neighbouring properties within a 500m radius of the site. The application was notified in the newspaper and available at Council and online for a period of 28 days, from 5 August to 2 September 2021. Two (2) submission were received.

3.4 Provisions of any Contributions Plan

The *Oberon Development Contributions & Water Management Works Plan (Amendment) 2004* is relevant pursuant to Section 7.18 of the EP&A Act.

The Plan requires that commercial and/or industrial development pay developer contributions at either 0.25% of the Capital Investment Cost or 4 x ET (whichever is greater). These two calculations equate to the following until July 2022 when the contributions charges are subject to change:

1. Development cost (\$12,450,000) x 0.25% (0.0025) = \$31,125
2. 4 x ET (\$19,237.55) = \$76,950.20

According to the Contributions Plan the contributions payable would be \$76,950.20 as it is the greater amount (calculated at time of assessment).

3.5 Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

3.6 Section 4.15(1)(a)(iv) - Provisions of Regulations

Schedule 3 of the Environmental Planning and Assessment Regulations 2000, classify this as designated development. As such as EIS has been prepared, and appropriate referrals to DPIE, TfNSW and NSW EPA have been made accordingly.

3.7 Section 4.15(1)(b) - Likely Impacts of Development

The consideration of impacts on the natural and built environments includes the following:

- **Context and setting**

The subject site is located across parts of three lots, resulting in the site containing a split land use zone (primarily IN1 General Industrial and partly RU1 Primary Production). The site is on the periphery of the Oberon industrial area, north of the Oberon Town Centre, and surrounding residential area. The site is predominantly cleared of vegetation outside of a small stand of trees which are to be removed as part of this application. Historically, the site has agricultural grazing and machinery storage use, and is currently cleared with some earthworks.

The proposed Landscaping and Composting facility is conducive to certain uses within the existing context and locality, primarily the industrial land uses of BORG Panel and Australian Native Landscape sites, which are of a similar industrial scale.

The proposed use continues the industrial nature of adjoining development, therefore will integrate and contribute to the agglomeration of similar industrial uses in the vicinity. For example, wood waste from adjoining wood processing facilities will be transported to site for its reuse. However, more 'general' industrial uses, e.g. depots, car machinery and storage facilities are likely to be adversely impacted by the proposed use, giving its potential for offensive impacts, if not appropriately managed.

The existing industrial buildings in the vicinity of the site vary in scale and density. The timber complex area to the west has numerous multistorey buildings and highly visible structures. The buildings located to the south are smaller in comparison with the majority being single storey sheds with varying footprints. The development, notably the earth mound, will be visible from the public domain, including residential areas. Given the anticipated nature of industrial development in this locality, the development remains compatible with the context and setting.

- **Access, transport and traffic**

As the application is for a waste or resource management facility, referral to TfNSW has been made under the ISEPP 2007, as this use is considered to be traffic generating development.

A response from TfNSW was received on 2 August 2021, which has informed draft conditions of consent in relation to traffic management. These conditions focused on:

- Specification of haulage routes;
- Maximum of 10 heavy vehicle movements between the Great Western Highway and the site during any hourly period;
- Limiting the size of vehicles to a 26m B-Double vehicle, in accordance with swept path analysis;
- Preparation of a driver Code of Conduct;
- Limiting vehicle movements in forward direction only Landscaping, fencing and signage is to not impede sight lines;
- Prohibiting retailing of products to the general public.

The application is supported by Integrated Transport Assessment (Barker Ryan Stewart, dated 19 May 2021). This assessment incorrectly assumes the original DA10.2019.43.1 is being modified, yet, the assumptions in this report are applicable to this current application. Oberon Council's Technical Services department reviewed the Integrated Transport Assessment and addressed any concerns by the Conditions of Consent'.

This TIA anticipates the development will generate 20 trucks per day arriving and departing the site, resulting in 40 truck movements per day. This has been conditioned to ensure traffic is managed in accordance with the extent of this study. It is assumed that 60% of movements will occur in the morning and afternoon peak periods.

Traffic generated by the development can be accommodated within the local network, with minimal impacts. Approximately 30% of all deliveries are to arrive from Borg's facilities in Somersby and Charmhaven, with the remaining 70% being from the local Borg facility.

Swept path assessments of the following intersections have occurred, and determined that B-Double vehicles can manoeuvre through the intersections, without the need for upgrade:

- Great Western Highway and O'Connell Road
- O'Connell Road and Albion Street
- Great Western Highway and Jenolan Caves Road
- Jenolan Caves Road and Duckmaloi Road
- Duckmaloi Road and Albion Street

Internal traffic movement

Vehicles enter the site via Hawken Street pass via the Main entry weighbridge adjacent to the site office. A waiting area (capacity of 1 x 19m B-Double) is provided within the front boundary and the weighbridge for traffic management. Vehicular movement through the site is in a one-way clockwise direction. Heavy vehicles exiting the site via the Main exit will pass through the exit weighbridge, and wheel wash area prior to exit.

The site has private entry along the western boundary to Lot 34 DP 1228591, for the movement of an estimated 70% of wood products. This internal movement between sites was queried by Oberon Council, and discussed in Section 5 of this report.

Employee Access & Parking

Employee access is provided at the front of the site, using access off Hawken Street. Pedestrian movements are separated from vehicular movements, as the car parking also corresponds with the site office and maintenance shed design (eg entry points to building).

The DCP requires 0.75 car parking spaces per employee, per shift. A total of 7 employees per shift are anticipating, requiring a total of 6 car parking spaces under the DCP. The application provides 11 spaces, including 1 disabled space, which is acceptable. Turf and vegetated area within the front setback will screen the car parking area from the streetscape.

• **Public domain**

The application is supported by a Visual Impact Assessment (BORG, dated 23 March 2021). This study shows the viewable area of the site being primarily from the north, north east, east, and south east, due to the topography and existing development as the image demonstrates below.

Visual sensitivity testing was assessed, rated against the sensitivity of the receiver vs the potential visual impact. The highest impact was from the corner of Cole Crescent and Albion Street, which is a residential receiver (see red mark in image below). From this point, the site is visible, and the earth mound and landscaping will be visible, yet the existing Borg Panel site will remain the dominant industrial development. Points along Hazelgrove Road and Albion Street were classed as 'moderate', and points to the west were 'low' or 'no impact'.

As the site is adjacent to existing and dominant industrial development, the visibility of the site from the public domain is acceptable, as it will blend in with the existing Oberon industrial area. The implementation of the landscaped earth mound will lessen the visual intrusion of the development from the public domain.



Figure 6: Approximate ‘view cones’ (Visual Impact Assessment, p6)

- **Utilities**

The proposed development will require power, water and sewer utilities, all of which are available. Reticulated town water, and power is accessible via Hawken Street, which can be extended into the site at the cost of the applicant. The closest sewer line runs along the northern part of 68 Hawken Street, which can be connected to the site office. Stormwater connections are available in Endeavour Street and Hawken, and can be made at the applicants cost.

- **Heritage**

There are no heritage items within close proximity of the proposed development. The closest heritage item is approximately 750 metres to the south and there is no direct line of site between the development and the heritage item (I27). No heritage conservation area impacts on the development site. In regard to aboriginal heritage, an AHIMS search by applicant (4 May 2021) found no Aboriginal sites or places within the search area.

- **Other land resources**

A small portion of the site is zoned as RU1 – Primary Production zone. Only approximately 1 hectare of land will be impacted by the development, removing agricultural land. The development is not likely to significantly reduce the productivity of the remainder of the RU1 – Primary Production land which surrounds the development.

- **Water**

The application is supported by a Water Cycle Impact Assessment (Sustainability Workshop, dated 26 May 2021). The study notes the development will be creating a large expanse of hardstand space (approx. 2.9Ha) to form a sealed environment for the processing of waste, and a 5ML Onsite Detention Basin is proposed to capture stormwater for reuse across the site.

The appropriate management of water onsite, and the developments potential impact to waterways in the vicinity of the site is a primary concern for this Development Application. The management of water was unclear in the EIS, and Oberon Council, EPA and one submission (NPWS) requested additional information and clarification regarding the management of water. Refer to assessment of key concerns below.

Groundwater

The development will not result in interception with groundwater. Ground water levels below the basin (which is the lowest point of the site) have been checked and groundwater will not be encountered.

Flooding

The proposed development is not located within a floodplain, therefore was not further addressed by this study.

- **Soils**

Soil testing as part of the Contamination Investigation (Envirowest, dated 1 March) concluded that 'levels of all substances evaluated were below the adopted thresholds for industrial land-use' (p17). Topsoil and organic material was found onsite, and not part of the testing. The report recommended that the site is suitable for the proposed use with no remediation required, subject to the top soil material, machinery, equipment and chipboard is removed from the site. On the site visit this was not visible, and Oberon Councils request for information sought clarification regarding the management of this land.

Land surrounding the site which is zoned RU1 Primary Production will still be suitable for grazing or other production uses in the future. There is unlikely to be a significant increase in sedimentation or erosion of soils in the nearby area due to the onsite detention basin as well as vegetation being planted throughout the earth mound.

- **Air and microclimate**

The application is supported by an Air Quality Impact Assessment (Todorski Air Services, dated 20 May 2021). This report assessed the development in relation to impacts of odour and dust.

The proposed development has the potential to have adverse impacts on amenity, in relation to dust and odour, and is classified as potentially offensive industry under SEPP 33. In relation to odour, it is anticipated the key pollutants would be from the organic material, including the receipt, composting, maturation and handling areas, as well as other sources such as the OSD. In relation to dust, the anticipated key pollutants are anticipated from loading/unloading, processing and screening of material, vehicle movements and windblown dust from stockpiles.

This issue is a primary matter of consideration for the application, and concerns were raised in the NPWS submission and Oberon Councils request for additional information, as the EIS did not sufficiently address the potential impacts of the development on air and micro climate. Refer to assessment below.

- **Flora and fauna**

The application was supported by a Flora and Fauna Assessment Report (Narla Environmental, dated May 2021). 6.81Ha of vegetation, beyond the boundaries of the 5Ha site, was assessed in the F&F Report.. A field survey was conducted and found that no threatened fauna was identified. The report states:

“The proposed facility is to be located within historically cleared land, the proposal will require the removal of all suitable nesting trees. None of the habitat features within the Survey Area are considered to be important to the long-term survival of threatened fauna species within the locality. The impact of removal of marginal foraging habitat for these species is therefore considered to be negligible.” (p20).

As discussed above, this report notes that:

- There will be no significant impacts to any potentially locally-occurring threatened flora;
- Habitat areas were not considered to be important to the long term survival of threatened species in the locality;
- No threatened species were likely to use the fruit and flower-bearing trees as their habitat.

Despite clearing of the site for the development, it is considered to have minimal overall impacts to flora and fauna. Therefore, the application is considered acceptable in this regard.

• **Waste**

The application is supported by a *Waste Management Plan* (Jackson Environment and Planning, 28 April 2021). As discussed below, waste generated during the construction stage is to be minimal, as organic waste will be kept onsite for processing, and soil will be used for earth mounds. It is anticipated that the recycling rate during construction phase is 95-100%.

The operation of the site as a Waste and Resource Recovery Facility means the site will be receiving material for processing which otherwise would have been discarded as waste. The facility is therefore in line with strategies such as the NSW EPA *Waste Avoidance and Resource Recovery Strategy 2014-21*, which aims to divert waste from landfill and increase industrial recycling.

The type and source of waste was queried by Oberon Council in an additional information request, and discussed further below.

Anticipated incoming waste will consist of approximately 50% garden organics, 37% pine bark and sawdust, 8% wood and timber and 5% bottom ash. From the received substances, it is anticipated that the recycling rate is 95-100%. Small amounts of contamination will be removed from the material prior to processing and sent to landfill. A 20sqm skip bin will be within the wood processing area to store scrap metal from wooden pallets, for recycling offsite. Small level of waste generated onsite, e.g. from employees is anticipated and will be removed from site at the operators cost.

The nature of the development being a waste and resource recovery facility will result in beneficial impacts on waste management within the region and state.

• **Energy**

The development will use energy from via the mains powerline, and through the onsite fuel tank, to be used for plant machinery and trucks. The EIS does not provide any further assessment regarding energy consumption, or sustainability matters.

• **Noise and vibration**

The application is supported by a Noise and Vibration Impact Assessment (Spectrum Acoustics, dated March 2021). The only noise mitigation measure (which was considered as

part of the below modelling) is the 3.6m earth mound. In summary, the modelling concluded that:

- Operational noise levels (noise emissions from the facility) are predicted to comply with Project Trigger Noise Levels for receivers;
- Maximum night time noise events (modelled with noise enhancing weather conditions) showed no potential for sleep disturbance;
- Construction noise complied with requirements for construction noise levels;
- Traffic noise during construction and operational phases complies with relevant traffic noise levels; and
- Vibration levels complied with human comfort and building damage criteria.

The use of the site, and the proposed 24hr/7days a week delivery operations has potential for adverse impacts in relation to noise and vibration. This issue was raised by Oberon Council and NSW EPA in additional information requests, and the NPWS in their submission as the EIS did not satisfactory address impacts on sensitive receivers. This matter is a primary concern, and is addressed in the assessment below.

• **Natural hazards**

The site is not mapped as being bushfire prone. Despite this, a Draft Bushfire Report (using Planning for Bushfire Protection 2006) was submitted with the EIS. Oberon Council requested an assessment of Planning for Bushfire Protection 2019.

The Draft report:

- Notes the site is not mapped as being bushfire prone and there are no specific bushfire requirements for Class 7 buildings.
- Recommends walls surrounding storage bays are constructed from non-combustible materials. The EIS notes concrete blocks will be used to store material.
- Recommend bushfire emergency evacuation plan is prepared. This has been conditioned.
- Notes a 50m APZ, but crosses over site boundaries.

The storage bays are separated from potential grass fire on adjoining lands by a swale, irrigated areas, OSD and earth mound. The earth mound is to be landscaped and managed at <100mm high to keep onsite grassed areas to a minimal fuel level. The 100KL water tank and 5ML OSD basin will be used for the purposes of firefighting if required.

• **Safety, security and crime prevention**

The application was referred to the NSW Police for comment (18 August 2021) in accordance with Oberon Council's Memorandum of Understanding. NSW Police did not raise concerns with the Development Application.

The application is supported by a Draft Emergency Plan (Bettergrow, dated May 2021). This details emergency response procedures for a variety of matters including bomb threat, medical, chemical spill, explosion, and bushfire events. A final Emergency Plan has been conditioned.

• **Social impacts in the locality**

The development has potential for adverse health and social impacts, if matters such as noise, dust and odour are not managed, as noted above and assessed below. The EIS notes some mitigation measures have been put in place, such as hours of operation, landscaping, earth mound and operational practices to minimise any adverse social impacts of the

development. However, NSW EPA and Oberon Council requests for information, and the NPWS submission requested additional information and clarification on measures to reduce adverse social impacts. These have been consolidated by the EPA in General Terms of Approval which have been incorporated into the consent.

- **Economic impact in the locality**

The development will have a positive economic impact on the locality. The development will result in the creation of 7 jobs, to operate the facility. Construction jobs will also be created (5 jobs anticipated). The development will have positive economic impacts as waste products can be processed and sold, instead of becoming landfill.

- **Site design and internal design**

The layout of the site has been appropriately designed for the flow of operation. Set aside areas are provided for storage of material at their different processing stages (receipt, screening, composting, processing and quarantine areas), with organic material being separated from wood material. Unprocessed material is also separated from processed material, to minimise contamination. Entry to the site is clearly delineated with the positioning of the site office, machinery shed and weighbridges acting as a barrier to internal operations. Employee parking is set between the front boundary and site office, to minimise conflicts with large vehicles within the site. Concerns regarding internal circulation of heavy vehicles and their ability to provide accurate material input data is discussed in Section 5 of this report.

- **Construction**

Construction matters have been appropriately addressed by the EIS, and measures in place to reduce adverse impacts:

- Waste: Green waste resulting from site clearing will be mulched and re-used on site. Soil from the earthworks and site levelling will also be re-used on site for earth mounds. The Waste Report anticipates a 95-100% recycling rate during the demolition / construction phase.
- Transport: The TIA assumes approximately 220 truck movements bringing crushed concrete and soil into the site during a construction period of 16 weeks. Construction staff and construction vehicle movements, totalling 5 per morning and 5 per afternoon is anticipated. NPWS submission requested clarification that their depot site have access during construction. The proponent confirmed in Response to Submissions that access would be provided to the NPWS Depot at all times during construction and operation.
- Noise/Vibration: Modelling showed construction noise, including from transport, will comply with the relevant construction noise management levels noise. This study did not address sensitive receivers properly, as discussed below.
- Water: A temporary sediment basin would be used, and converted into the final water quality pond close to the completion of construction.
- Hazards: No fuels, oils, lubricants and chemicals will be stored on-site during the demolition and construction phases of the project.
- Air Quality: NPWS submission raised concerns with the ongoing air quality, including during construction, and the impacts on their depot site.

- **Cumulative impacts**

The development will be the first development on the subject site, so will not have cumulative impacts in regards to the site development. However, it will have cumulative impacts in relation to the overall industrial development of the area. As the land is zoned for

IN1 General Industrial development, further development is anticipated. This application is suited to certain types of industrial development in the vicinity (notably BORG Panel and ANL sites). Despite this, the industrial nature of the subject development will add to industrial noise, when considered in addition to the existing industrial development, which was not addressed in the EIS. Conditions of consent regarding generation and limitation on noise generation have been included the Environment Protection Authorities General Terms of Approval.

3.8 Section 4.15(1)(c) - Suitability of the site

The proposed development is located within predominantly the IN1 – General Industrial zone with some of the land within the RU1 – Primary Production zone. The site is undeveloped, with highly disturbed areas due to earthworks. The site is suited to industrial type development, due to its proximity to adjoining and surrounding industrial uses. The site is not constrained by native vegetation or riparian buffers and can suitably accommodate the proposed development. The site is in the vicinity of a number of sensitive receivers which have the potential to be impacted by this type of development if it is not addressed and managed.

3.9 Section 4.15(1)(d) - Public Submissions

Submissions are considered in Section 4 of this report.

3.10 Section 4.15(1)(e) - Public interest

The proposal is considered to be in the public interest if the adverse impacts of noise, dust and odour from operations and from haulage vehicle movements can be appropriately managed. The application is consistent with planning legislation and controls subject to the effective monitoring of the quantity of materials input via installation of a weighbridge at the south western access point. The development will generally have positive economic impacts in the locality.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment, concurrence, and referral as required by the EP&A Act and outlined below in Table 5.

Table 5: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
NSW Environmental Protection Authority	Integrated Development under Protection of the Environment and Operations Act s43(d), 48, 55 - scheduled activity	Noise: sought clarification on the potential noise sources and mitigation measures during the delivery of materials. Product Sales: Sale of organic material to the public, and if the site is publicly accessible. Water: Site water balance study and wet weather site management details.	Yes, resolved by Conditions of Consent included.
Referral/Consultation Agencies			
Transport for NSW	CI 104 – Infrastructure SEPP Development that is deemed to be traffic generating development in Schedule 3.	Provided recommended conditions regarding heavy vehicle haulage routes, number of vehicle movements, vehicle sizes, code of conduct of drivers and signage.	Yes, addressed as conditions of consent.
NSW Police	In accordance with Councils MOU for commercial and industrial developments.	Raised no concerns with the development.	Yes
DPIE	In accordance with Clause 81 of the EP&A Regulations, referred all submissions to DPIE.	Raised no concerns with the submissions.	Yes
RFS	S4.14 – EP&A Act Development on bushfire prone land	No response received.	N

4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 6: Consideration of Council Referrals

Officer	Comments	Resolved
Technical Services	All outstanding issues have been addressed by 'Conditions of Consent.	Yes

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 5 August 2021 until 2 September 2021. The notification included the following:

- An advertisement in the local newspaper Oberon Review (4 weeks during the exhibition period);
- Notification on Council's website;
- Notification letters sent to adjoining and adjacent properties (500m radius, with 68 letters sent);

The Council received a total of 2 submissions; from APA Group who raised no objections, and from NSW National Parks and Wildlife Services who raised concerns regarding the impact on the adjacent Kanangra Parks Depot. The issues raised in these submissions are considered in **Table 7**.

Table 7: Community Submissions

Submission	Council Comments
APA Group The development is located approximately 855 metres south-east of the gas pipeline. Does not object to the development proposal.	Noted. No further action required.
NSW National Parks and Wildlife Service - No ancillary construction related facilities or access is to be provided on the NPWS depot site - Erosion and sediment control techniques are required to ensure works do not result in increased sedimentation entering the depot site - Surface treatment of access way and storm water management in the 'non-operational' area - Concerns regarding storm water entering the depot site from the access way - Operational and amenity impacts on the depot, during construction and operational phases, as it is a sensitive receiver which has not been considered (office work, staff kitchen, recreation facilities for lunch breaks, workers in the yard) - Dust and airborne particulate impacts does not consider the depot - Odour and amenity impacts do not consider the depot (therefore mitigation measures are not appropriate), or the worst case scenario of odour assessment (when the windrows are turned) - Support the provision of a noise mound - Noise Impact Assessment did not include assessment of industrial receivers, such as the depot. - Development of OEMP should consider the above matters - Ensure the NPWS depot retains access to its depot at all times - Details of the proposed private access to rural lots behind the site (blank space in between the depot and	The submission on behalf of the NPWS Depot raised the adjacent concerns and provided a number of recommendations to specifically address them. The issues raised were put back to the proponent. The recommendations of the NPWS have been agreed by the proponent or included as conditions of consent to satisfactorily address the concerns of the NPWS.

the site, ranging from 5-7m wide). This was not addressed in the Transport assessment or the EIS. - Recommend no retail operations on the site - NPWS does not have any record of consultation, as was stated in the EIS	
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5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Effective monitoring of the approved capacity of the subject site

There are three (3) aspects to this heading.

Exceeding the legislated capacity of the site

In correspondence dated 30 March 2022, the Department of Planning notes;

In the event that the development's annual processing capacity exceeds 100,000 tpa, the proposal would be classified as SSD and the appropriate consent authority would be the Minister of Planning.

As stated in the background, the subject site has an existing Designated Development approval (10.2019.43.1) for the processing of 99,000 tpa of *Wood waste and landscape supplies* approved on 20 December 2019. The approval of the subject development application effectively doubles the 99,000 tpa capacity of the approved *Waste management and resource facility*. This is particularly a concern where some of the documentation has retained reference to the subject application as a modification to the existing approved *Landscaping Supplies facility*.

As noted above Section 23(3) of Schedule 1 of the now repealed SEPP (State and Regional Development) SEPP, under which the subject application must be assessed, considers *Development for the purpose of a resource recovery or recycling facilities that handle more than 100,000 tonnes per year of waste* State Significant Development. With the two approvals combined for all intents and purposes, the subject site must now be considered to exceed the handling capacity of the site under the broader definition of a *Waste and resource management facility* that would be considered State Significant Development.

Resolution: Include conditions of consent requesting that the proponent surrender the existing consent DA 10.2019.43.1 for the use of the site to process *Wood waste and landscape supplies*.

Conditions of Consent

Conditions of Consent imposed by Council and Transport for New South Wales (TfNSW) require that the site is limited to receive 99,000 tpa of input materials. The onus is on the proponent to effectively monitor and record the volume of material entering the site.

Effective monitoring of material received.

The proponent accepts that *'The proposed development will require an environmental protection license from the NSW Environment Protection Authority, under Schedule 1 Clause 34(1) of the Protection of the Environment Operations Act, 1997. It is also noted that a weighbridge will need to be included with the development application as per Section 36 of the Protection of the Environment Operations (Waste) Regulations, 2014*

The requirement for a license also necessitates the payment of Contributions under Section 88 of the PoEO Act, 1997. The amount of material received must therefore be carefully

monitored from all access points to be of any affect and to ensure neither overpayment nor underpayment occurs. Table 2.2 (p10) of the EIS confirms, by adding the 'Wood and Timber', 'Pine bark and sawdust' and 'Bottom Ash' categories (all sourced from the adjacent Borg plant operations) that 49,500 tpa (50%) will enter via the side southwestern corner access by 2024.

More specifically, Section 36(3a) of the PoEO (Waste) Regulation requires that:

The occupier (of a scheduled facility who is required to pay contributions under Section 88 of the Act) must (inter alia):

(a) submit to the EPA, within 30 days after installing the weighbridge, a plan of the waste facility indicating the proposed vehicle flow controls, including entry and exit points where waste is transported into and out of the waste facility (a vehicle flow control plan), and...

5.2 Internal Access arrangements:

Clarification was sought on (12 October 2021) how material received from adjoining land via the internal access point will be measured and accounted for.

The applicant's response to Council's request in *Response to Submissions Report* (dated 26 November 2021) was:

All loads will be weighed at the weighbridge. The development will only accept up to 99,000 tonnes per annum, therefore being designated development.

This access point is of concern with this Development Application because at this time the proposal is not State Significant Development (SSD), the existing consent (10.2019.43.1) has an approved capacity of 99,000 tpa and the proposed development also has a limited capacity to 99,000 tonnes of waste processed per annum. In addition, the Traffic Impact Assessment (TIA) advises at p15 that:

Approximately 30% of deliveries will arrive from Borg's facilities in Somersby and Charmhaven, and the remaining 70% of deliveries arriving from the Borg facility located directly adjacent (to the west) of the subject site.

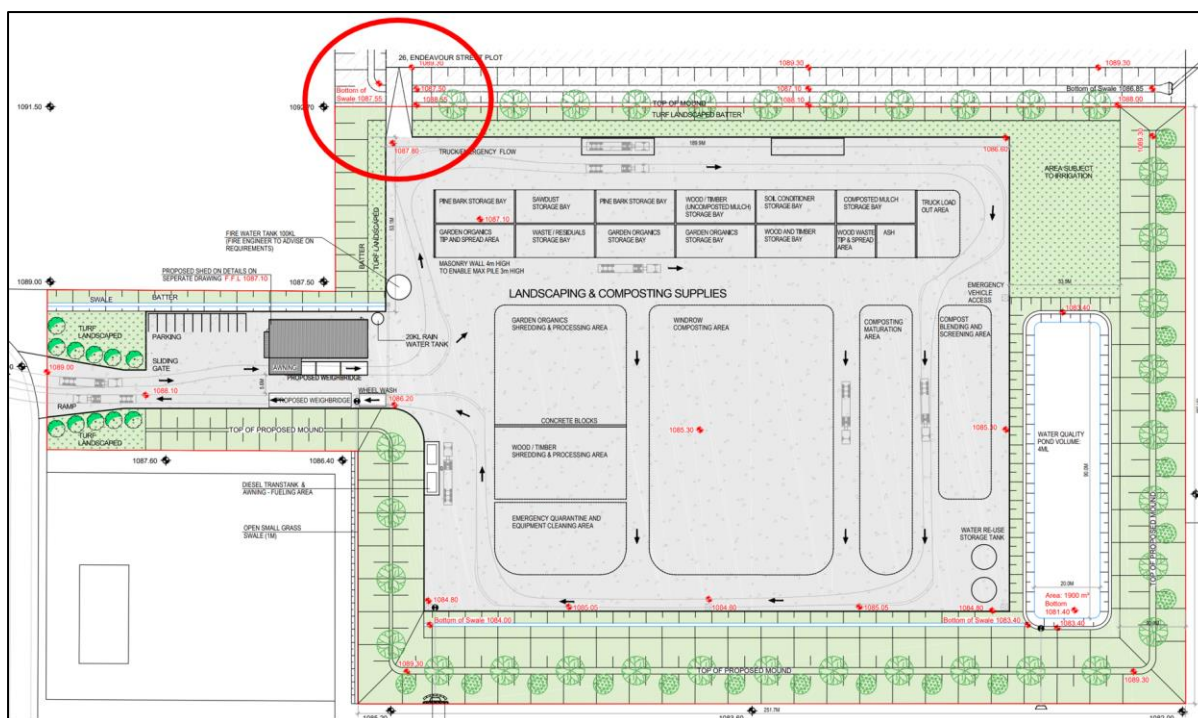


Figure 7: Proposed internal access point without Weighbridge

If waste is received via this unregulated and unmonitored internal access point, additional materials may be received and processed, which will exceed the 99,000 tonnes limitation (thereby becoming SSD).

A second request for clarification regarding the signage for the path taken by vehicles entering the site from this access was included in Council's Request for Information of 5th July 2022. The applicant responded (BETTER~1) was that:

'The intention is that all vehicles will exit the site via the main entrance / exit. The side access road is solely for transfer of materials from the neighbouring premises to the composting site. It is anticipated that this access way will be used but infrequently.'

The 'Stop proceed with caution' will be double sided, so as to be visible from both directions. In addition, signage from the timber mill side will be installed noting "Entry" with a 10 km/hr speed limit sign'.

If this is the case, to effectively monitor the weights of vehicles entering or exiting the site via this access, vehicles would be required to traverse the whole site in a clockwise direction, exit the site through the main entry, then 'U-turn' or double back to go across the Main entry weighbridge. These vehicle movements are not identified in the TIA and further, their use of the public road network would result in additional wear and tear on Council's roads.

In addition we can see from the Plan approved as part of 10.2020.21.1 (Figure 2) for the adjacent hardstand area, that a 2nd ingress and egress point can also be used. This is considered inconsistent with the need to accurately monitor material inputs into the site.

To address this, conditions of consent have been included for a weighbridge to be installed at this access point.

Resolution: A condition of consent requiring a weighbridge to be installed at the southern western access point.

5.3 Access Arrangement In-between the NPWS Depot and Site

The site plan shows a narrow strip of land (5-7m in width) between the subject site, and the adjoining National Park & Wildlife Services Depot. This is assumed to be an access route to the remainder of Lot 33 north to ensure the subject development does not land lock the remaining land. This access route, including its connection to Maher Drive, surface treatment, stormwater management, sediment control and suitability of access for industrial and farm machinery is not noted within the EIS or transport assessment. The area of concern is highlighted in red below, and was raised within the NPWS submission and Oberon Councils request for additional information.

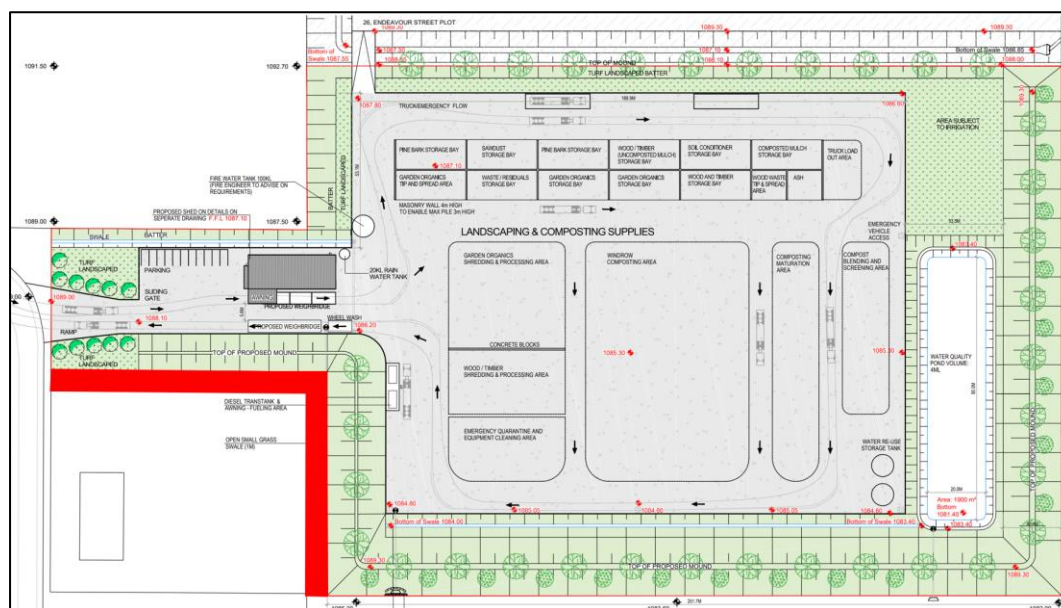


Figure 8: Proposed access point to remainder of site to the north

Resolution: Conditions of consent have been included addressing the above issues raised by Council and the NPWS.

5.4 Impact on Sensitive Receivers

The nature of the development will result in generation of dust, odour and noise, which impact on all receivers, particular sensitive receivers. These issues were raised by Oberon Council in a request for Additional Information (12 October 2021) and submissions from NSW Environment Protection Authority (1 September 2021) and National Parks and Wildlife Service (NPWS – undated).

Council's request for Additional Information identified sensitive receivers as:

- Caravan Parks – located on 15-19 Albion Street & 7-9 Cunynghame Street
- Café – located at 66 Albion Street
- Managers Residence – located at 45-51 Albion Street; and
- Other dust sensitive land uses within the industrial zone (e.g. NSW National Parks & Wildlife Service Depot)

The applicant's responses were provided in 'Response to Submissions Report DA10.2021.49.1 – Bettergrow Composting and Landscape Supplies, Oberon' (26 November 2021 as outlined below.

- **Noise**

The proponent's response is as follows:

The NVIA (Noise and Vibration Impact Assessment) specifically includes the Jenolan Cave Caravan Park (7 Cunynghame St), which is adjacent to 15 Albion St. It found the night time noise levels acceptable. The NVIA found that the operational noise level at the site would be 70 dB, which is acceptable for industrial premises. The only site close enough to be affected is the NPWS, which would also be at 70 db. The noise modelling diagrams show acceptable levels of noise at the cited locations.

Resolution: Notwithstanding the proponent's response, the Environment Protection Authority (EPA) have included conditions of consent at L4.0 for the ongoing monitoring of Ambient Noise levels.

- **Odour**

With regard to Odour and air quality the proponent's response in the above referenced 'Response to Submissions...' is as follows:

The caravan park and managers residence were included as sensitive receptors in the AQIA (Air Quality Impact Assessment) (No.3 & 5). However, they have been included in the additional information provided by air quality consultant....Analysis of the predicted 99th percentile nose (sic) response odour results show the predicted odour levels are below 2 OU for all receptors with the exception of the National Parks and Wildlife Services Depot located adjacent to the Project site.

The National Parks and Wildlife Services Depot is located within the industrial zone and would be expected to allow for a higher tolerance of odour impact being situated within an industrial area.'

The proponent agrees with the comment of the NPWS above that Noise and Air Quality mitigation measures and monitoring shall be included in the OEMP (Operational Environment Management Plan), which the proponent advises is a post-approval requirement of the EPL approval process.

- **Dust**

In relation to dust, the anticipated key pollutants are anticipated from loading/unloading, processing and screening of material, vehicle movements and windblown dust from stockpiles. The study assumed this application was a modification to DA10.2019.43.1. The study notes that the introduction of organic material has greater moisture content than wood material, with a lower propensity for dust generation.

Mitigation Measures

The Air Quality Impact Assessment (Todoroski Air Services, dated 20 May 2021) recommended the following mitigation measures are proposed for the development, to ensure impacts on odour and dust can be mitigated:

- Keeping the stored wastes and products at suitable moisture levels
- All incoming material to be prepared for composting on the day received
- Minimise stockpiling of raw materials overnight
- Co-ordinate the delivery schedule to avoid a queue of trucks

- Fixed, well laid out roads/paths for vehicles to minimise fugitive dust, spillage and odour
- Spill management procedures to ensure immediate clean-up of any spill
- Maintain an odour complaint logbook
- Regular cleaning of all hard stand areas
- Avoid significant handling of material during poor conditions

The only noise mitigation measure is the proposed earth mount, up to 3.6m along the site boundaries.

Resolution: In conjunction with the above identified Mitigation Measures it is considered, on balance that the EPA has satisfactory processes in place to ensure that adequate measures will be established to monitor, record and address significant odour impacts on sensitive receivers and surrounding land uses. Any outstanding matters will be addressed via conditions of consent.

5.5 Water Management and Impacts

As previously noted, the application is supported by a Water Cycle Impact Assessment (Sustainability Workshop, dated 26 May 2021).

Stormwater is proposed to be diverted and stored onsite in a 5ML OSD basin, to be used for irrigation of materials to keep an optimal moisture for dust suppression, and irrigation of pervious areas of the site. It is understood that the OSD basin will meet approximately 42% of the water demand with the remainder from reticulated town water. On-site water management will mean that discharge from the site occurs less frequently than 1 in 10 years (for example during extreme weather events).

The study states the current predevelopment 'Mean Annual Volume Runoff' (MARV) is 5.2ML/year. If no water harvesting, reuse and evaporation measures were implemented, the post development MARV would be 16.3ML/year. However, as retention measures are incorporated into the site design and operations, the post development MARV is 3.1ML, which is less than the pre-development extent (as stormwater is being retained on site).

The EIS states that stormwater runoff from non-operational areas (approx. 4,500sqm near the site entry and area south of the compost shedding and stockpile area) will be discharged from the site, similar to typical urban runoff. This will be via a leaky weir along the eastern boundary. It is considered that a drainage easement is required on Lot 34 to cater for this discharge.

Kings Stockyard Creek

Two overflow paths to the east of the site, carry runoff approximately 580m downstream of the site to Kings Stockyard Creek (see image below). The proposed development has the potential to increase Total Suspended Solids, Phosphorus, Nitrogen and other toxic pollutants being received by the creek. These pollutants are a result from impervious areas on site, containing organic material, ash etc and increased traffic volume.



Figure 9: Overland Flow Paths (Sustainability Workshop, 2021)

Proposed mitigation measures regarding water quality management include:

- Wheel wash to reduce tyre borne contaminants. Wastewater will be treated and sent to trade waste;
- Gross Pollutant Traps (GPTs);
- Divert stormwater from GPTs into grassed swales;
- Stormwater treatment pond with 5ML storage volume;
- Irrigate the site using captured stormwater;
- Treatment of captured water where required for safety; and
- In extreme weather, discharge excess leachate from the pond to the sewer system, under a trade waste agreement.

Council requested a Comprehensive Stormwater Management Plan to clarify stormwater management across the site, as the flow of stormwater within and from the site is not clear. In response to this the following issues are raised:

- Despite the application proposing to retain stormwater onsite (by diverting it to the OSD), some stormwater discharge is to be via a leaky weir on the eastern boundary. This is supposed to be from 'clean' non-operational areas (i.e. near the office and car park), however the site plan shows these stormwater discharges to potentially impact Kings Stockyard Creek.
- Discharge from 'non-operational' areas (ie office and car parking) will have capacity to pollute stormwater runoff, as the area is frequented with truck movements over the weighbridge (which has the potential to become contaminated).
- Stormwater management of the private access way in-between the site boundary and the NPWS depot.

- Details regarding sewerage and stormwater connection points have not been provided.

Resolution: The issues raised have been resolved by Conditions of consent included in General Terms of Approval (GTA's) issued by the EPA and by Council imposing conditions on the diverting of stormwater discharges into an easement to be registered across Lot 33.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The development application is permissible under *State Environmental Planning Policy (Infrastructure) 2007*. Subject to Conditions of Consent, the development is compliant with requirements of applicable NSW Legislation, and the Oberon Development Control Plan 2001.

The development has the potential to have significant effects of the environment; however various mitigation measures have been implemented and conditioned accordingly.

Referrals to TfNSW and NSW EPA have been made in accordance with Designated and Integrated Development requirements for a Waste and Recovery Facility of this scale. Matters raised in the agency submissions have been conditioned accordingly. Overall, the proposed use will have a beneficial impact on waste management across New South Wales and will be in the public interest support local employment opportunities. It is recommended the Development Application is granted.

It is considered that the key issues as outlined in Section 5 have or can be resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That Development Application DA No 10.2021.49.1 for Composting and Landscaping Supplies Facility, at 24-26 Endeavour Street and 68 Hawken Street, OBERON be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Site Visit images