

DETERMINATION AND STATEMENT OF REASONS

WESTERN REGIONAL PLANNING PANEL

PANEL REF & DA NO	PPSWES-97 - Oberon - 10.2021.49.1 Composting and Landscape Supply Facility (as described in Schedule 1)
ADDRESS	Lots 33-34 DP 1228591 & Lot 18 DP 1249431 24 & 26 Endeavour Street OBERON 68 Hawken Street OBERON
APPLICATION TYPE	Designated Development - Waste Facility
APPLICANT	Shaun Smith - Space Urban
LGA	Oberon
DETERMINATION (s4.16)	Approval
DATE OF DETERMINATION	31 August 2022
DATE OF PANEL DECISION	30 August 2022
DATE OF PANEL MEETING	23 August 2022
PANEL MEMBERS	Garry Fielding (Chair), Graham Brown, Anthony McBurney, Lauren Trembath
APOLOGIES	None
DECLARATIONS OF INTEREST	Sandra Hutton, Clive McCarthy
MEETING DETAILS	by teleconference on 23 August 2022, opened at 10am and closed at 11.45am. Papers circulated electronically on 16 August 2022.

SUMMARY

- The development application (DA No 10.2021.49.1.) was lodged with Oberon Council ('the Council') on 8 July 2021 for Waste and Resource Management Facility ('the proposal') at 24-26 Endeavour Street OBERON and 68 Hawken Street OBERON. The application was referred to the Panel on 1 June 2022.
- The Council prepared an Assessment Report dated 15 August 2022 recommending approval of the development application. The Council considered that consent to the proposal should be granted having regard to the relevant matters for consideration under s4.16(1) of the EP&A Act 1979. The principal reasons for recommending the granting of consent were:
 - The proposed facility is permissible with consent under the relevant EPIs;
 - The proposed facility is appropriate for the site having regard to the relevant matters for consideration under s4.16(1) of the EP&A Act 1979;

- o The proposed facility and required environmental protection measures will avoid any significant effects on the host community and the local environment;
 - o The requirements of TfNSW and the NSW EPA will serve to appropriately mitigate any potential impacts within the remit of these agencies;
 - o The proposed facility will have a beneficial impact on waste management throughout NSW, benefitting the public interest; and
 - o The proposed facility will serve to foster local employment opportunities in the Oberon area and thereby support the area's economic and social development.
- The Panel agrees with the Council's assessment report and the reasons for recommending the granting of consent to the proposal.
- Having considered all the supporting material lodged with the application and submissions made by agencies and the community, the Panel has determined to approve the development application pursuant to section 4.16(1) of the *Environmental Planning and Assessment Act 1979* ('the EP&A Act').
- The development application required the following Agency referrals:
 - a) Environment Protection Authority
 - b) Transport for NSW ('TfNSW') -
 - c) NSW Police
 - d) Rural Fire Service
- Prior to determination of the application the Panel held a briefing with the applicant to discuss the assessment report and the recommended conditions of consent.

MATERIAL CONSIDERED BY THE PANEL

- The Panel considered the following material in making its decision:
 - a) the conclusions and recommendations of the Council's Assessment Report dated 15 August 2022 prepared and provided to the Panel pursuant to Section 4.7(2)(b) of the EP&A Act;
 - b) information included in the development application pursuant to Clause 50 of the Regulation as outlined in Schedule 1;
 - c) the relevant matters for consideration under Section 4.15(1) of the EP&A Act relevant to the proposal as outlined in Schedule 1;
 - d) the objects of the EP&A Act pursuant to Section 1.3;
- The Panel has also considered the views of the community in written submissions made during the public exhibition period as outlined in Schedule 1.
- The Panel noted the following issues of concern were raised and have been considered in the assessment:
 - o Dust and airborne particulate impacts
 - o Odour and amenity impacts
 - o Traffic management and traffic impacts
 - o Noise impacts

KEY ISSUES

- Following a thorough assessment of the proposal and having considered Council's Assessment Report, the Panel considers the following comprise the key issues in the assessment of this development application:
 - a) Effective monitoring of the proposed capacity of the facility
 - b) Internal access arrangements
 - c) Access arrangements between the facility and the NPWS depot
 - d) Noise, odour and dust impact on sensitive receivers
 - e) Stormwater impacts and management
- The Panel is satisfied that these key issues have been adequately addressed through amendments to the proposal and through the conditions of consent to be imposed.

PANEL DETERMINATION (Section 4.16 of the EP&A Act)

- Following a thorough assessment and consideration, the Panel determined to approve the development application pursuant to section 4.16(1) of the EP&A Act.
- The decision was unanimous.

REASONS FOR THE PANELS DECISION (Section 2.16(2) of the EP&A Act)

- The Panel's reasons for granting consent to the development application include:
 - o The proposed facility is permissible with consent under the relevant EPIs;
 - o The proposed facility is appropriate for the site having regard to the relevant matters for consideration under s4.16(1) of the EP&A Act 1979;
 - o The proposed facility and required environmental protection measures will avoid any significant effects on the host community and the local environment;
 - o The requirements of TfNSW and the NSW EPA will serve to appropriately mitigate any potential impacts within the remit of these agencies;
 - o The proposed facility will have a beneficial impact on waste management throughout NSW, benefitting the public interest;
 - o The proposed facility will serve to foster local employment opportunities in the Oberon area and thereby support the area's economic and social development; and
 - o Overall, development of the proposed facility is considered to be in the public interest.
 - o The issues raised during consultation and in submissions have been considered and adequately addressed through amendments to the project and through the recommended conditions of consent;

CONDITIONS (Section 4.17 of the EP&A Act)

- The development application is approved subject to the conditions in the Council assessment report pursuant to Section 4.17 of the EP&A Act with the following amendments:
 - o Condition 1 to be amended to include the following before the table of documents:
 - 1. General terms of approval**
 - The development shall be carried out in accordance with the approved stamped plans and supporting documents set out in the table below, except were modified by any conditions of this consent. If there are any inconsistencies between conditions of consent and the specific conditions of the statutory authorities, the conditions of the statutory authorities shall prevail to the extent of the inconsistency.

In the event of any inconsistency between conditions of this development consent and the approved plans and supporting documents, the conditions of this

development consent prevail. If there is any inconsistency between the plans and documentation referred to in the table, the most recent document shall prevail to the extent of the inconsistency.

- o Condition 3 to be amended and read as follows:

3. Surrender of existing consent

Development consent DA10.2019.43.1 that approved the use of the site as a *Wood and Landscape Supplies facility* must be surrendered to Council prior to the issue of a Occupation Certificate.

Reason: To maintain the waste handling capacity of the site to within the limitations s Regionally Significant Development.

- o Condition 10 to be amended and read as follows:

10. Construction, erosion and sediment control

The developer shall perform all works necessary to maintain all erosion and sediment control measures for this development during construction to effectively control potential soil erosion, sedimentation and other environmental impacts until all construction work has been completed, stabilised, revegetated and authorised for removal.'

Regular removal of accumulated material in all erosion and sediment control measures is required.

The developer shall lodge with the Council a security deposit or unconditional bank guarantee in a form acceptable to Council, in an amount of \$124, 500 being 1% of the estimated construction costs as security or an amount negotiated with Council for satisfactory performance of the developer's responsibilities under this condition.

See also condition O3.1 of the NSW EPA's conditions, attached.

Reason: to ensure protection of waterways from constructions works.

- o Condition 40 to be amended and read as follows:

40. An Operational Environmental Management Plan (OEMP) is to be prepared for the proposal to inform operations on site. The OEMP is to be submitted and approved by Council prior to issue of a Occupation Certificate. At a minimum, it is anticipated that the OEMP would cover the following matters to ensure operations will not impact existing and ongoing NPWS operations on the adjacent depot site:

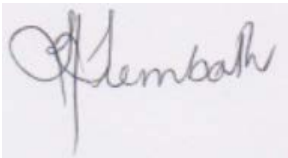
- (a) Dust suppression protocols for the facility, including no operation of machinery/turning of composting piles on windy days and giving consideration to the operational needs of the NPWS depot site.
- (b) Odour suppression protocols for the facility, including no operation of the receival area stockpile or turning of composting piles during conditions likely to cause significant odour.
- (c) Noise suppression protocols for the facility.
- (d) Monitoring by the applicant of compost turning events and other operations on site that might impact neighbouring lots is recommended. Appropriate protocols should be in place if monitoring detects unreasonable odour or other impacts at site boundaries as a result of onsite operations.

Reason: To ensure site operations consider operations on adjoining sites.

- the requirements of integrated development pursuant to Division 4.8 of the EP&A Act and advises that the proposal is in accordance with the general terms of approval granted by the approval body in relation to the development.
- the concurrence and referral requirements pursuant to Section 4.13 of the EP&A Act and advises that the proposal is in accordance with these requirements;

NOTICE OF DETERMINATION (Section 4.7(2)(e) of the EP&A Act)

3. The Panel requests that the Council undertake the required notification and registering of the Panel's determination.

PANEL MEMBERS	
 Garry Fielding (Chair)	 Graham Brown
 Anthony McBurney	 Lauren Trembath

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-97 - Oberon - 10.2021.49.1
2	PROPOSED DEVELOPMENT	Composting and Landscape Supply Facility
3	STREET ADDRESS & LEGAL DESCRIPTION (LOT/DP)	Lots 33-34 DP 1228591 & Lot 18 DP 1249431 24 & 26 Endeavour Street OBERON 68 Hawken Street OBERON
4	APPLICANT/OWNER	Shaun Smith - Space Urban
5	TYPE OF REGIONAL DEVELOPMENT (Schedule 7; SRD SEPP 2011)	Designated Development
6	MATTERS FOR CONSIDERATION (s 4.15(1) of the EP&A Act)	a) The provisions of (i) Environmental planning instruments (s4.15(1)(a)(i)): - State Environmental Planning Policy (State and Regional Development) 2011 - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy No. 55 – Remediation of Land - State Environmental Planning Policy (Koala Habitat Protection) 2021 - State Environmental Planning Policy No. 33 Hazardous and Offensive Industry - Oberon Local Environmental Plan 2013 (ii) Development control plans (s4.15(1)(a)(iii)): - Oberon Development Control Plan 2001 (iii) Planning agreements (s4.15(1)(a)(iiiia)): NIL (iv) the <i>Environmental Planning and Assessment Regulation 2000</i> (s4.15(1)(a)(iv)): - Designated development under Schedule 3, EIS has been prepared and appropriate referrals to agencies. b) The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality c) The suitability of the site for the development d) Any submissions made in accordance with the Act or regulations e) The public interest
7	MATERIAL CONSIDERED BY THE PANEL	a) Council assessment report: 15 August 2022 b) Information included in the development application pursuant to Clause 50 of the Regulations including: (i) Statement of Environmental Effects prepared by Jackson Environment and Planning dated 16 June 2021. c) Written submissions during public exhibition: 2 d) Total number of unique submissions received by way of objection: NIL
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing: 8 October 2021 <u>Panel members</u>: Garry Fielding (Chair), Graham Brown. <u>Council assessment staff</u>: Nancy-Leigh Norris <u>DPE</u>: Carolyn Hunt, Kim Holt

		• Site inspection: 7 June 2022 - o <u>Panel members</u>: Graham Brown (Acting Chair), Brian Kirk, Anthony McBurney - o <u>Applicant representatives</u>: Sam Coles, Victor Bendeviski - o <u>Council assessment staff</u>: Bennett Kennedy, Damian O'Shannassy - o <u>DPE</u>: Sung Pak • Applicant Briefing: 7 June 2022 - o <u>Panel members</u>: Graham Brown (Acting Chair), Brian Kirk, Anthony McBurney - o <u>Applicant representatives</u>: Sam Coles, Victor Bendeviski - o <u>Council assessment staff</u>: Bennett Kennedy, Damian O'Shannassy, Jaclyn Burns - o <u>DPE</u>: Sung Pak <u>Note</u>: Applicant briefing was requested to provide the Panel with clarification and to respond to issues OR to respond to the recommendation in the council assessment report • Final briefing to discuss council's recommendation: 23 August 2022 - o <u>Panel members</u>: Garry Fielding (Chair), Graham Brown, Anthony McBurney, Lauren Trembath. - o <u>Council assessment staff</u>: Bennett Kennedy, Chris Schumacher - o <u>Applicant representatives</u>: Mark Daniels – Space Urban - o <u>DPE</u>: Sung Pak
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and as outlined above