

JOINT REGIONAL PLANNING PANEL

(Southern Region)

JRPP No.	JRPP Reference Number 2013STH025
DA Number	DA 186-2013
Local Government Area	Queanbeyan City Council
Proposed Development	Torrens Title subdivision creating 93 lots in Stage 6 of Neighbourhood 1A, Community Title subdivision creating 4 community schemes with 76 development lots, and the erection of 81 dwellings including 14 exhibition homes in Stage 3B of Neighbourhood 1A.
Street Address	Lot 280 DP 1185463, Lot 3 DP 1179941, Lot 1 DP 1183929 and Lot 5 DP 1179941 being 36 and 36B Googong Road, Googong, NSW 2620
Applicant/Owner	Googong Township Pty Ltd ATF Googong / Googong Township Pty Ltd
Number of Submissions	Two Public Submission and Four Government Agency Submissions
Recommendation	Approval of Stage 6 Subdivision (Except for a Specified Excluded Area) / Refusal of Stage 3B Subdivision
Report by	Chelsea Newman, Queanbeyan City Council

Assessment Report and Recommendation

Executive Summary

The subject application contains two distinct parts.

Stage 3B Subdivision – Community Title

A proposed Community Title subdivision on previously approved super lots in Stage 3B of Neighbourhood 1A relies on the *Community Land Development Act 1989* in an attempt to circumvent minimum lot size development standards. Broadly, it includes the following aspects:

- Create 6 x super lots, on which two will be for future residential development. The remaining four are proposed to be further subdivided into 4 x Community Title Schemes under the *Community Land Development Act 1989*. The Community Title Schemes include 76 x Community Development lots;
- Construction of 81 x dwellings on the 76 x Development lots. These include;
 - 14 x exhibition homes within an exhibition village,
 - 5 x secondary dwellings on the same Development lot as the principal dwelling,
 - 7 x semi-detached dwellings (above-garage) on their own Community Development lot. The application also seeks approval to further subdivide the buildings containing these dwellings by a Stratum subdivision under Sections 196B – 196L of the Conveyancing Act 1919 to allow for the allocation of garage space, and
 - A mixture of detached, semi-detached and attached dwellings with detached garages and/or car ports.
- Construct 4 x private laneways and associated landscaping and lighting within a Community Property lot within each Community Title Scheme.

The further subdivision of the 2 x super lots not proposed to be subdivided as Community Title Schemes will be the subject of future development applications.

Recommended Partial Refusal – Stage 3B

The proposed Community Title Schemes include 26 x residential lots (Community Development lots) that contravene the minimum lot size prescribed in the Queanbeyan Local Environmental Plan 2012 and the Googong Development Control Plan—the smallest lot being 89m². The assessment has recommended that the Stage 3B subdivision part of the proposed development be refused pursuant to Section 80(4)(b) of the *Environmental Planning and Assessment Act 1979* (the Act) as a specified part of the subject development application. The applicant has declined to withdraw this aspect of the application and has requested the Panel to determine this matter. A plan showing the Stage 3B subdivision recommended to be refused is shown in Attachment A of this Report.

Note: If agreed to by the Panel, the refusal of the subdivision of land in Stage 3B would also necessarily mean the refusal of the proposed construction of all of the 81 x dwellings proposed within the Community Title Schemes as there would be no approved lot for them to be located on.

Stage 6 Subdivision – Torrens Title

The proposed Torrens Title subdivision of Stage 6 of Neighbourhood 1A of the Googong Township is a relatively straightforward proposal that essentially carries on from two previous consents issued by the JRPP for the subdivision of earlier Stages. Broadly, it includes the following aspects:

- Create 9 x super lots for future residential development, 1 x super lot for a future neighbourhood centre, 3 x lots for open space and a drainage reserve, and 72 x residential lots. One previously approved lot remains for the retention of a future public school (Lot 3 DP 1179941). This lot remains encircled by the proposed subdivision;
- Undertake all subdivision works within Stage 6 comprising site preparation and grading, tree removal, utilities augmentation, drainage and road construction;
- Undertake soft and hard landscaping works to embellish 1 x local park and 1 x open space adjoining Montgomery's Creek as well as street landscaping; and
- Construct and use temporary construction compound and site access roads.

The construction of future dwellings and the further subdivision of super lots will be the subject of future development applications.

Recommended Partial Consent and Exclusion– Stage 6

Pursuant to Section 80(4)(b) of the *Environmental Planning and Assessment Act 1979* (the Act) development consent is recommended to be granted only to the Stage 6 subdivision, which is a specified part of the subject development application. This would constitute a partial consent. However, pursuant to Section 80(4)(c) of the Act a specified aspect of the Stage 6 subdivision is recommended to be excluded from any partial consent. This exclusion is outlined below.

The creation of 9 x residential lots located within Stage 6D which have vehicular access from a Local Arterial Road known as Gorman Drive (AV1). The assessment has recommended that these lots as shown in the original development application, and by necessity, a total of 17 x residential lots within 2 x separate blocks, should be excluded from the recommended partial consent, should it be granted. The applicant has declined to re-design the affected lots and has requested the Panel to determine this matter. A plan showing the lots recommended to be excluded is shown in Attachment B of this Report.

The recommended exclusion would result in an approval for the Stage 6 subdivision being for 55 x residential lots, rather than 72, and 2 x residual super lots, taking the total to 11 x super lots for future residential development.

Note: Section 80(5) of the Act allows for development consent to be granted in the future for the part of the development initially excluded from a consent under Section 80(4).

Overview

The capital investment value (CIV) of the proposed development is \$31.5m. In accordance with the provisions of State Environmental Planning Policy (State and Regional Development) 2011 and Schedule 4A of the *Environmental Planning and Assessment Act 1979*, the CIV exceeds the maximum of \$20 million and as such the determining authority is the Southern Joint Regional Planning Panel.

The vast majority of the subject site is zoned R1 – General Residential under Queanbeyan Local Environmental Plan 2012 (the LEP). Two very small sections of the site within

Stage 6 and bordering Montgomery's Creek are zoned E2 – Environmental Conservation and RE1 – Public Recreation. The proposed development is permissible with consent within the R1 zone. Specific parts of the proposed development that are within the E2 and RE1 zones are also permissible with consent.

Council resolved on 27 July 2011 the Googong Urban Development Land Planning Agreement (known as the VPA) be executed as a Deed. The VPA relates to community facilities; open space provision and embellishment; roads, water and sewer infrastructure; affordable housing; water and energy savings initiatives; monetary contributions; ecological offsets and administration.

A State Developer Agreement (SDA) has been prepared. The Hon Brad Hazzard MP, Minister of Planning and Infrastructure advised Council on 15 September 2011 of the execution of the Googong Planning Agreement. The Planning Agreement provides that the developer will make monetary contributions of 75% of \$4,296.71 per developable hectare (subject to indexation) towards the costs of acquisition of land for the purposes of:

1. A fire station (being a 2,000m² site);
2. Two primary schools (one site being 2.81ha and the other 3ha in size); and
3. A high school (being a 6ha site).

Alternatively the developer may elect to dedicate all 12.01ha of land for the sites. One primary school site has already been identified within Stage 6 of Neighbourhood 1A. This lot was created as part of a previous subdivision approval (DA 41 – 2011). The subject application does not propose any works on this lot, however, the proposed subdivision of Stage 6 has been designed to incorporate this school lot.

The NSW Department of Planning and Infrastructure issued the satisfactory arrangements certificate for the subject application on 12 March 2014.

To service urban development at Googong, Council has completed road construction works on Edwin Land Parkway. The road links Old Cooma Road to Lanyon Drive which gives access to the Monaro Highway in the Australian Capital Territory.

Stage 1 of the Old Cooma Road upgrade was completed in 2013. This involved the replacement of a section of road near the Cooma Road Quarry with a straighter and wider section of road making for much safer travel and improved traffic flow between Queanbeyan and Googong. Stage 2 of the duplication of Old Cooma Road from Edwin Land Parkway to Googong will involve a distance of 4.5kms. This will deliver a four lane dual carriageway for the full length of the duplication. Completion is not scheduled until the Googong Township is substantially underway.

The proposed development was advertised as Integrated Development from 1 November 2013 to 2 December 2013. Adjoining property owners and occupiers were also notified by mail. Two written public submissions were received during this period. Government Agency submissions were received from NSW Planning and Infrastructure, NSW Office of Water, NSW Police and the Commonwealth Department of Infrastructure and Regional Development.

The part of the application that proposes the subdivision of land in Stage 3B of Neighbourhood 1A to create 4 x Community Title Schemes and construct 81 x dwellings is recommended to be refused for reasons discussed throughout this Report and detailed in the Recommendations section.

An assessment under Section 79C of the *Environmental Planning and Assessment Act 1979* has been undertaken. The part of the application that proposes the subdivision of Stage 6 of Neighbourhood 1A is recommended for approval subject to the imposition of conditions and exclusion of 17 x residential lots within Stage 6D due to inappropriate vehicular access to a Local Arterial Road – Gorman Drive (AV1).

Background

Googong is a developing new township comprising approximately 790ha of land currently zoned for urban development. Apart from some exclusions, Stages 1 – 5 of Neighbourhood 1A of the Googong Township have already been approved by the Joint Regional Planning Panel in 2011 and 2013 (DA#1 and DA#2). These included the creation of over 800 residential lots through conventional Torrens Title subdivision as well as various community facilities and infrastructure. Numerous individual dwelling-houses are currently being constructed in Stage 1A and the provision of infrastructure and community facilities is progressing. The subject Development Application (DA#3) includes subdivision of land to create the final stage of Neighbourhood 1A – Stage 6. This stage contains the first Neighbourhood Centre and a site set aside for a public school under a State Voluntary Planning Agreement.

Strategic Context

Queanbeyan Residential and Economic Strategy 2006 – 2013 (the Strategy)

The aim of this Strategy is to identify sufficient employment and residential land to meet future demand for the next 25 years, while achieving an appropriate balance of conservation, housing and employment development. The Strategy is a macro level document endorsed by both the Minister for Planning and Queanbeyan City Council that informs the preparation of other planning instruments, agreements, policies and studies. This Strategy is also adopted in the NSW Planning and Infrastructure's *Sydney Canberra Corridor Regional Strategy 2006 - 2031*.

Based on strategic planning undertaken by NSW Planning and Infrastructure the Strategy contains a housing capacity target for the Queanbeyan local government area of approximately 10,000 new dwellings to 2031. Residential land identified in the Poplars, Tralee, Environa and Googong areas will accommodate predicted growth in the Queanbeyan.

The Strategy specifically recommended that Googong Township be developed to provide 5,500 dwellings. A key principle in the Strategy is that new housing development should occur on several fronts, progressed simultaneously and by more than one developer in order to provide appropriate housing choice in terms of location, style form and affordability, and be undertaken by a minimum of two development interests. This is currently occurring, particularly with the progression of the South Tralee urban release area. Another key principle in the Strategy is the integration of elements of affordable housing within release areas. This has been achieved for the Googong urban release area by a requirement in the Googong Local Voluntary Planning Agreement of 10% of all dwellings to be sold as Affordable Home Packages.

Local Environmental Plans - Googong 2009 and Queanbeyan 2012

The Queanbeyan Local Environmental Plan (Googong) 2009 (the Googong LEP) was gazetted in December 2009 with the primary aim of making local environmental planning provisions for the Googong urban release area. The Googong LEP was repealed in

November 2012 by the gazettal of the Queanbeyan Local Environmental Plan 2012. The provisions of the Googong LEP were carried over to the 2012 Plan without any substantial changes.

One relevant particular aim of the Googong LEP was to provide appropriate residential densities, including areas of high density, and a range of housing opportunities consistent with the environmental capacity of the land. Importantly, the minimum lot size of 330m² within the Googong urban release area, except for a specific allowance for lots between 170m² and 330m² to be created within 200 metres of Neighbourhood and Town Centres have remained unchanged since the Googong LEP was first gazetted to the currently applicable 2012 Plan.

Googong Local Voluntary Planning Agreement

The Googong Local Voluntary Planning Agreement (VPA) is an agreement made between Queanbeyan City Council and the developer of Googong Township (Googong Township Pty Ltd) following extensive negotiations. It outlines infrastructure, services, community facilities, and sustainability and affordability commitments associated with the development of the Googong urban release area that will be provided or met by the developers in lieu of payment of Section 94 Contributions. The VPA was prepared in such a way as to provide facilities to serve the 5,550 dwellings and approximately 16,000 people in Googong Township endorsed in the *Queanbeyan Residential and Economic Strategy 2006 – 2013* and reflected in the Googong Master Plan.

Googong Development Control Plan

The Googong Development Control Plan (DCP) was first adopted by Council in November 2010, with an amended Plan adopted in June 2013. It contains the Googong Master Plan and Structure Plan for Neighbourhood 1A. The DCP is structured to allow for the integrated development of Googong Township. It starts at the broad scale of the whole Township, proceeding into more detail with Structure Plans for each neighbourhood. From this subdivision designs can be prepared and subsequent development on individual allotments occur.

Site and Surrounds

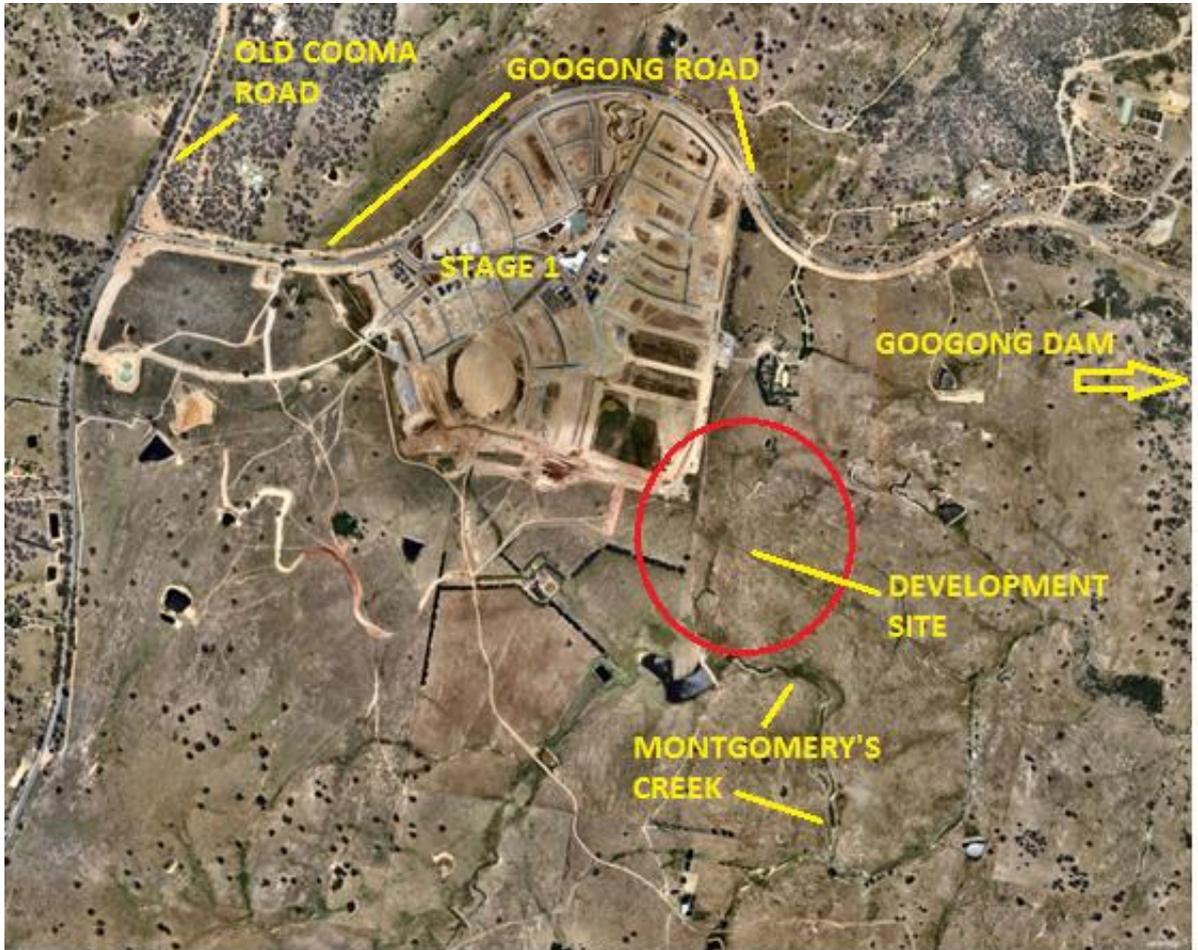
Figure 1 - Locality Plan shows the site of the Googong Township 8km south of the Queanbeyan CBD and 16kms south east of Parliament House, Canberra. The surrounding area is characterised by a variety of land uses including, nature reserves, low intensity forestry, rural residential, cattle and sheep grazing and recreation. Googong Dam and the Googong Foreshores (owned by the Commonwealth Government and leased to the Australian Capital Territory Government) is immediately east of the site and an operating quarry is located north west of the site on the western side of Old Cooma Road.

Figure 1 – Locality Plan



The principal infrastructure and landscape features of Neighbourhood 1A as a whole are shown in the figure below:

Figure 2 – Aerial Photograph of Site



Neighbourhood 1A has the following characteristics:

1. Extensive frontage to Googong Road;
2. Bound by Googong Road to the north and farmland to the west, east and south;
3. Access is from Googong Road which connects to Old Cooma Road;
4. Most of Neighbourhood 1A comprises heavily degraded pasture used for mixed sheep and cattle grazing. Occasional eucalypt trees and tree clumps are scattered throughout the site and there are also a small number of farm dams and dry drainage lines;
5. The landform consists of gently undulating terrain with two drainage lines. Googong Creek in the west part of the site is a bifurcated watercourse that converges into one toward Googong Road. Montgomery Creek runs through the east and borders part of the southern border of Neighbourhood 1A. Both drainage line runs under Googong Road northwards towards the Queanbeyan River; and
6. The remains of a small 19th century hut structure identified as having heritage value is located in the west portion. A dwelling and outbuildings are located in the east portion and a cottage is located in the north western portion.

The part of Neighbourhood 1A subject to the proposed development has the following characteristics:

1. Is located in the south-east portion of Neighbourhood 1A;
2. Is bound by an adjoining land parcel in separate ownership to the developer of Googong Township known as the “Bunyip” land and Montgomery’s Creek to the south, and yet to be developed stages of Neighbourhood 1A approved for subdivision under previous development consents to the north, west and east. Also to the east the site is bound by a part of the Googong Township identified as being within future Neighbourhood 1B;
3. Access to the site is from Beltana Avenue, a collector street which connects to Googong Road which in turn connects to Old Cooma Road;
4. The landform consists mainly of gently undulating terrain with drainage lines generally directed to Montgomery’s Creek. The highest point is at about 750m AHD in the area within Stage 6 identified for the Neighbourhood Centre, with the lowest point at about 733m AHD where the land slopes towards Montgomery’s Creek;
5. While the main channel for Montgomery’s Creek is not within the site, its riparian corridor will be affected by the construction of a road and a drainage basin; and
6. There are no structures on the site.

Proposed Development

The details of the proposed development are listed below.

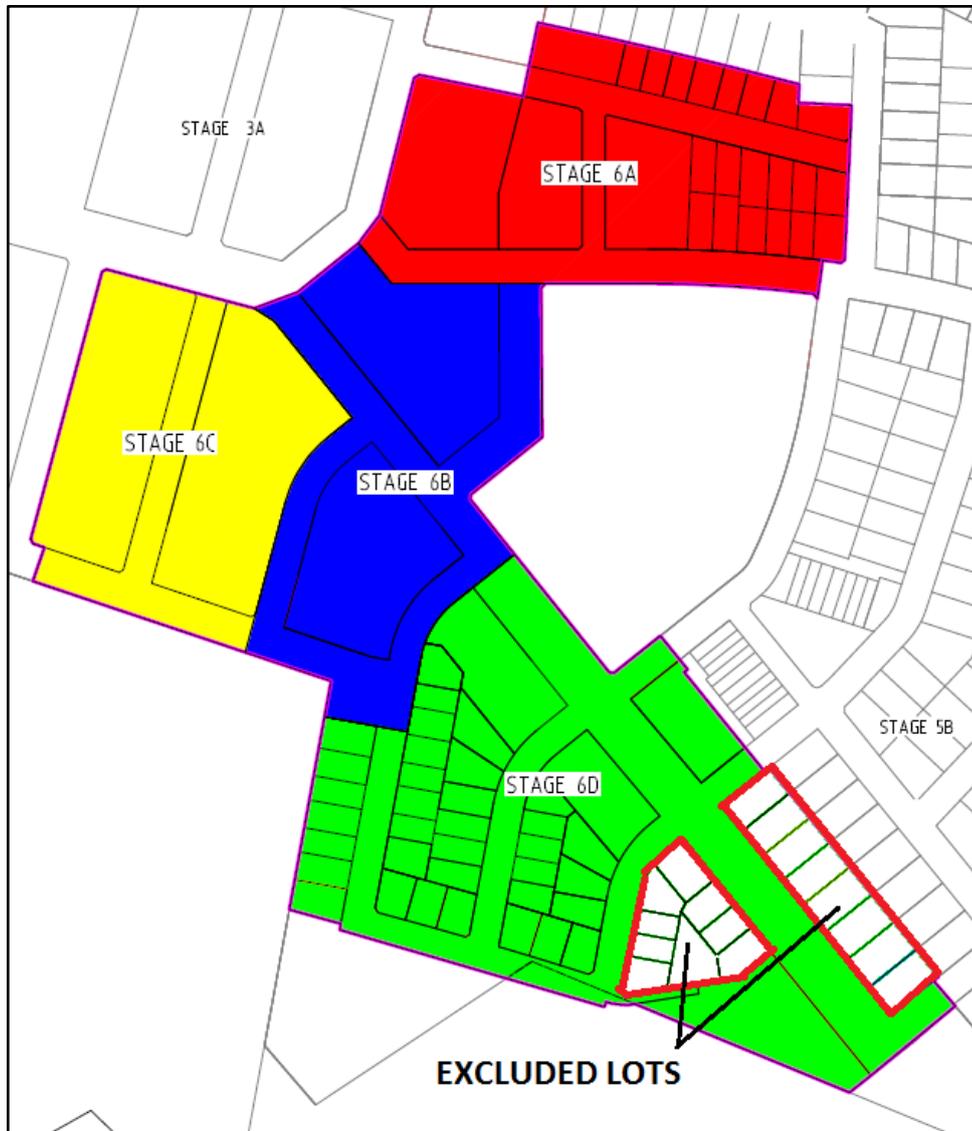
Subdivision

- a) Lot 1 DP 1183929 subdivided to allow for the inclusion of a small portion (597.9m²) into the southern section of Stage 6D to allow for the construction of a road (Helen Street).
- b) Lot 280 DP 1185463 and Lot 5 DP 1179941 subdivided to create Stage 6 of Neighbourhood 1A, being the last stage within Neighbourhood 1A, further broken down into sub-stages 6A, 6B, 6C, and 6D. Stage 6 includes the creation of the following:

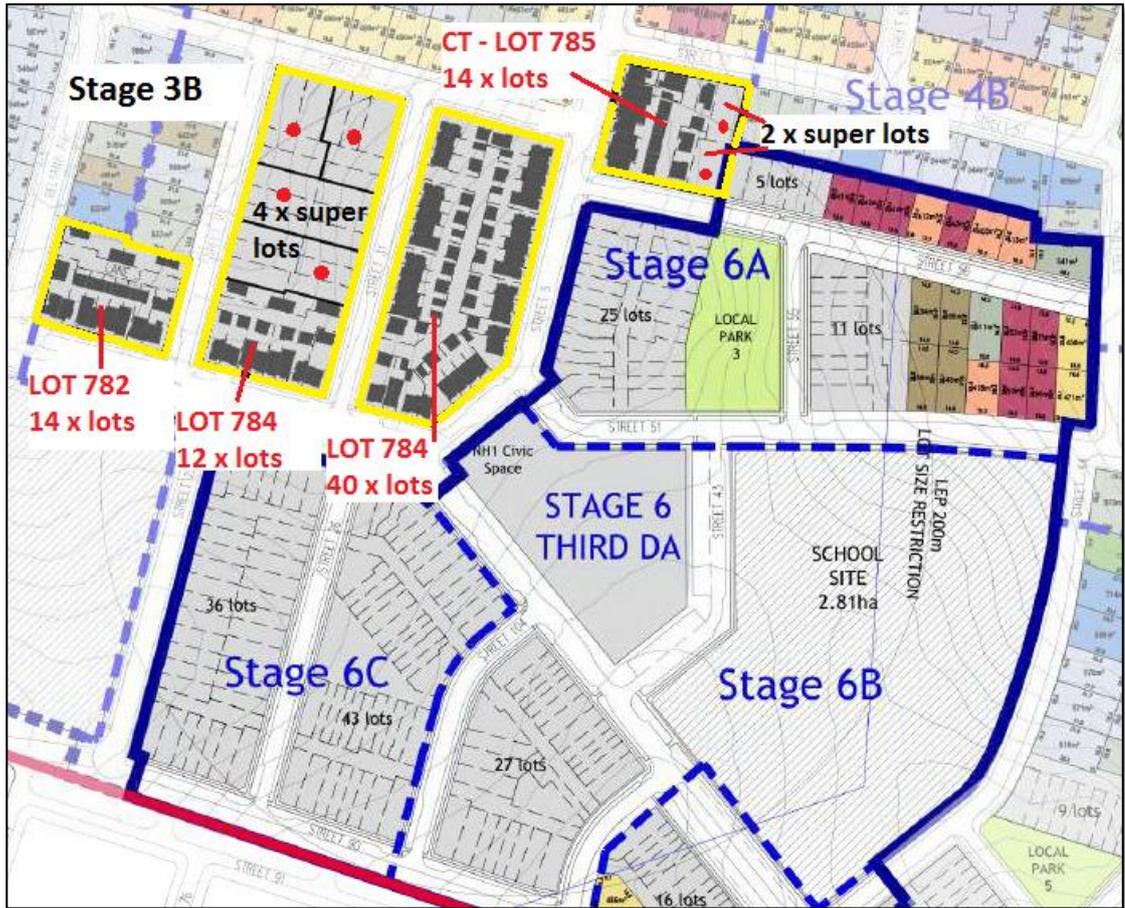
- i. 9 x super lots for future residential development;
 - ii. 1 x super lot for a future neighbourhood centre;
 - iii. 3 x lots for open space and drainage; and
 - iv. 72 x residential lots.
- c) Lots 782, 783, 784 and 785, located within Stage 3B and approved under development consent 233-2012/A, re-subdivided to create the following:
- i. 6 x super-lots for future residential development;
 - ii. 4 x Community Title Schemes under the *Community Land Development Act 1989*; and
 - iii. 76 x Community Development lots within the Community Title Schemes, of which 5 x lots are proposed to have a residential building further subdivided by stratum subdivision under Sections 196B – 196L of the *Conveyancing Act 1919*.

Note: Lots 782, 783, 785 and 785 are not registered lots and currently form a part of Lot 280 DP 1185463.

**Figure 3 – Plan Showing Subdivision of Stage 6 of Neighbourhood 1A
(Residential lots within heavy red line to be excluded from consent)**



**Figure 4 - Plan Showing Subdivision of Stage 3B of Neighbourhood 1A
(Community Title Schemes and Super Lots within heavy yellow line recommended to be refused)**



The above description of the proposed subdivision component is further broken down below.

Stage 6 Subdivision

- a) Stage 6A
 - i. 3 x super lots for future residential development (Lots 64, 66 and 87);
 - ii. 1 x lot for a public park (Lot 65);
 - iii. 20 x residential lots (Lots 67 – 86);
 - iv. New roads to be dedicated.
- b) Stage 6B
 - i. 1 x super lot for further residential subdivision (Lot 622);
 - ii. 1 x super lot for the neighbourhood centre and further subdivision (Lot 621); and
 - iii. New roads to be dedicated.

Note: Lot 3 DP 1179941 within Stage 6B has been set aside for a future public school under the terms of a State Planning Agreement. The subject application does not propose any works or changes to the boundaries of this lot.

- c) Stage 6C
 - i. 2 x super lots for further residential subdivision (Lots 631 and 632); and
 - ii. New roads to be dedicated.
- d) Stage 6D
 - i. 3 x super lots for further residential subdivision (Lots 88, 113 and 127);
 - ii. 1 x lot for public open space (including Montgomery's Creek vegetation offset) and road portion (Lot 144);
 - iii. 1 x lot for a drainage reserve (Lot 98);
 - iv. 52 x residential lots (Lots 89 – 112, Lots 114 – 126 and Lots 128 – 143). Note: There are two lots labelled in error as 125 on the proposed subdivision plan; and
 - v. New roads to be dedicated.

A total of 72 x individual residential lots between 337.5m² and 700m² are proposed to be created within Stage 6 under the subject application.

➤ **Stage 3B Subdivision**

- a) Lot 782 further subdivided to create:
 - i. 1 x Community Title Scheme consisting of 1 x Community Property lot (laneway) and 13 x Community Development lots.
- b) Lot 783 further subdivided to create:
 - i. 5 x super lots (4 of which will be for future residential development); and
 - ii. 1 x Community Title Scheme consisting of 1 x Community Property lot (laneway) and 11 x Community Development lots.
- c) Lot 784 further subdivided to create:
 - i. 1 x Community Title Scheme consisting of 1 x Community Property lot (laneway) and 39 x Community Development lots.
- d) Lot 785 further subdivided to create:
 - i. 3 x super lots (2 of which will be for future residential development); and
 - ii. 1 x Community Title Scheme consisting of 1 x Community Property lot (laneway) and 13 x Community Development lots.

Dwellings

- a) Construction of 81 x dwellings on 76 x development lots within the 4 x Community Title Schemes proposed to be created within Stage 3B. The 81 x dwellings include:
 - i. 14 x exhibition homes within an exhibition village;
 - ii. 5 x secondary dwellings on the same Community Development lot as the principal dwelling;

- iii. 7 x semi-detached dwellings (above-garage) on their own Community Development lot (identified as "Type 11 Dwellings"). These are within a building proposed to be further subdivided by stratum subdivision to allow for the allocation of garage space; and
- iv. A mixture of detached, semi-detached and attached dwellings with detached garages and/or car ports.

To assist in the understanding of the relationship between the proposed Community Title Schemes and each individual lot within them on which 81 x dwellings are proposed further information and images are provided below.

Proposed Community Title Subdivision of Lot 782

Lot 782 is an existing un-registered super lot approved under development consent 233-2012/A (DA#2). It is proposed to create a Community Title Scheme on this super lot containing 13 x Community Development lots (ranging in size from 92m² to 316m²), and 1 x Community Property lot (468m² laneway). Each Community Development lot will contain a dwelling, including 3 x above-garage semi-detached "Type 11 Dwellings". No secondary dwellings are proposed within Lot 782 (Refer to Figure 4 below).

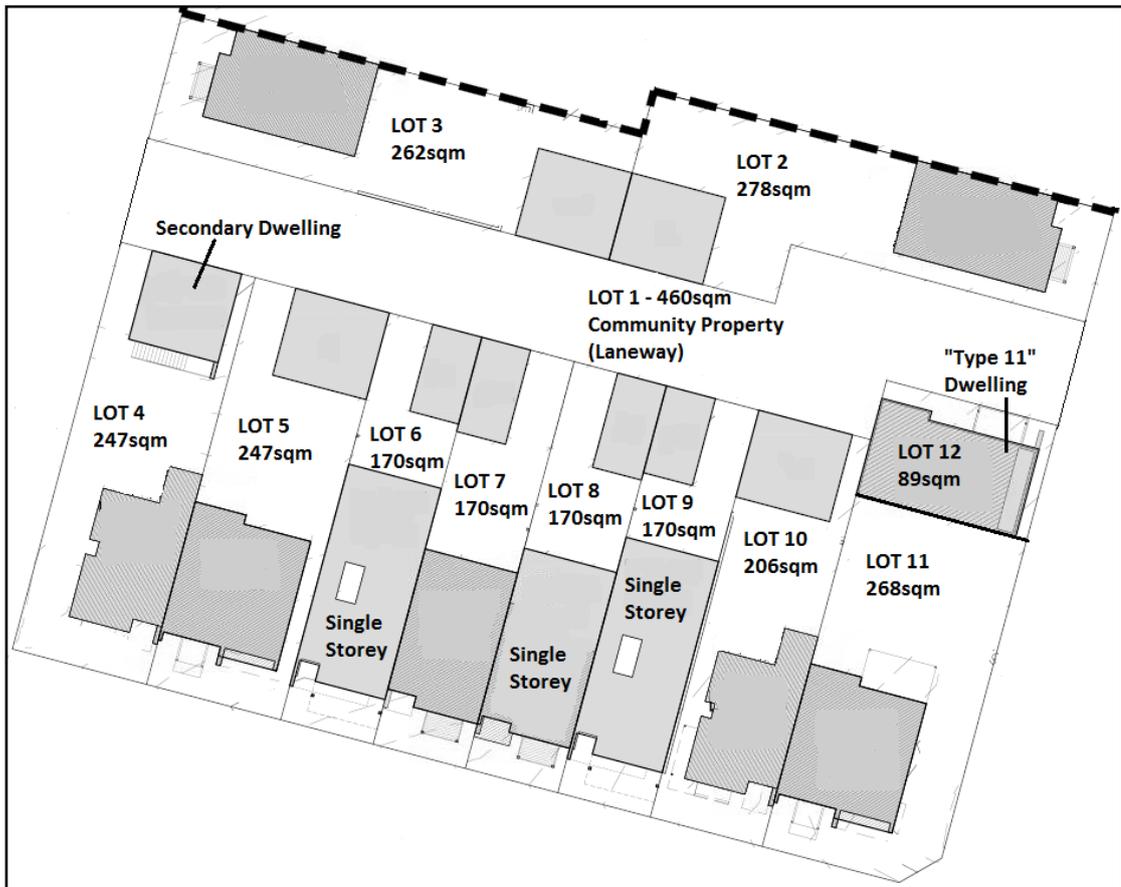
Figure 4 - Lot 782 – Subdivision and Dwellings



Proposed Community Title Subdivision of Lot 783

Lot 783 is an existing un-registered super lot approved under development consent 233-2012/A (DA#2). It is proposed to subdivide Lot 783 into 5 x super lots and create a Community Title Scheme on super lot 5. The Community Scheme is proposed to contain 11 x Development Lots (ranging in size from 89m² to 278m²), and 1 x Community Lot (460m² laneway). Each Community Development lot will contain a dwelling, including 1 x above-garage semi-detached "Type 11 Dwelling" and 1 x secondary dwelling (Refer to Figure 5 below).

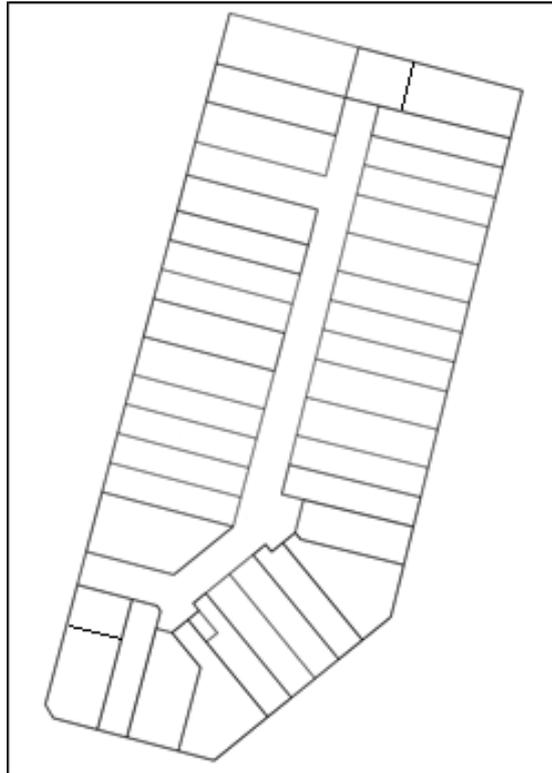
Figure 5 - Lot 783 – Subdivision and Dwellings



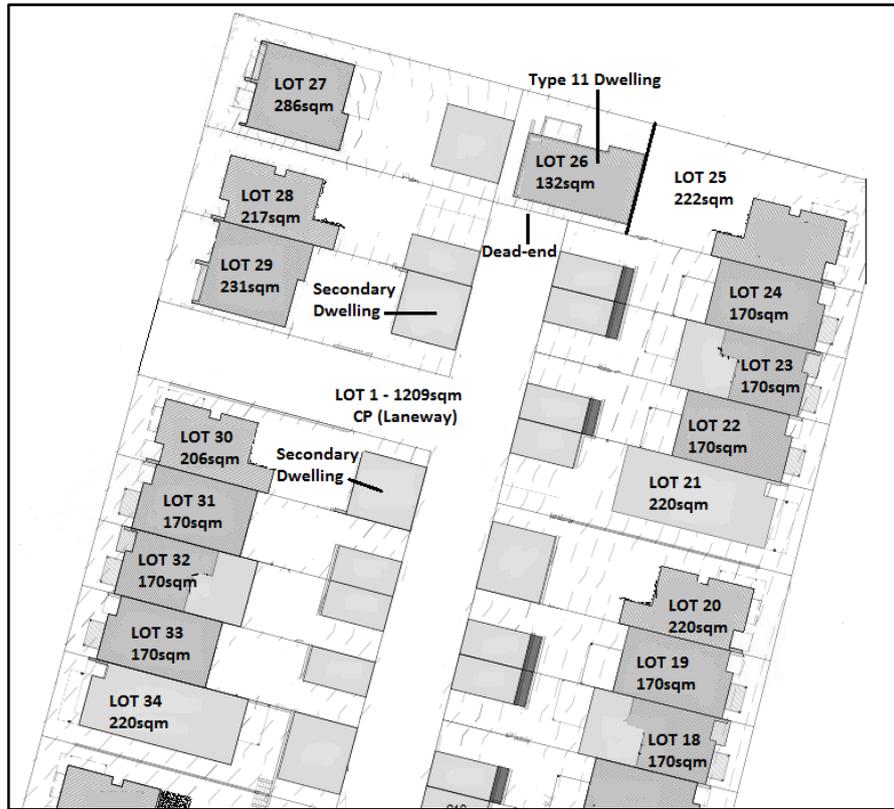
Proposed Community Title Subdivision of Lot 784

Lot 784 is an existing un-registered super lot approved under development consent 233-2012/A (DA#2). It is proposed to create a Community Title Scheme on this super lot containing 39 x Development Lots (ranging in size from 89m² to 288m²), and 1 x Community Lot (1209m² laneway). Each Community Development lot will contain a dwelling, including 2 x above-garage semi-detached “Type 11 Dwellings” and 3 x secondary dwellings (Refer to Figures 6 - 8 below).

Figure 6 - Lot 784 – Subdivision – Overview



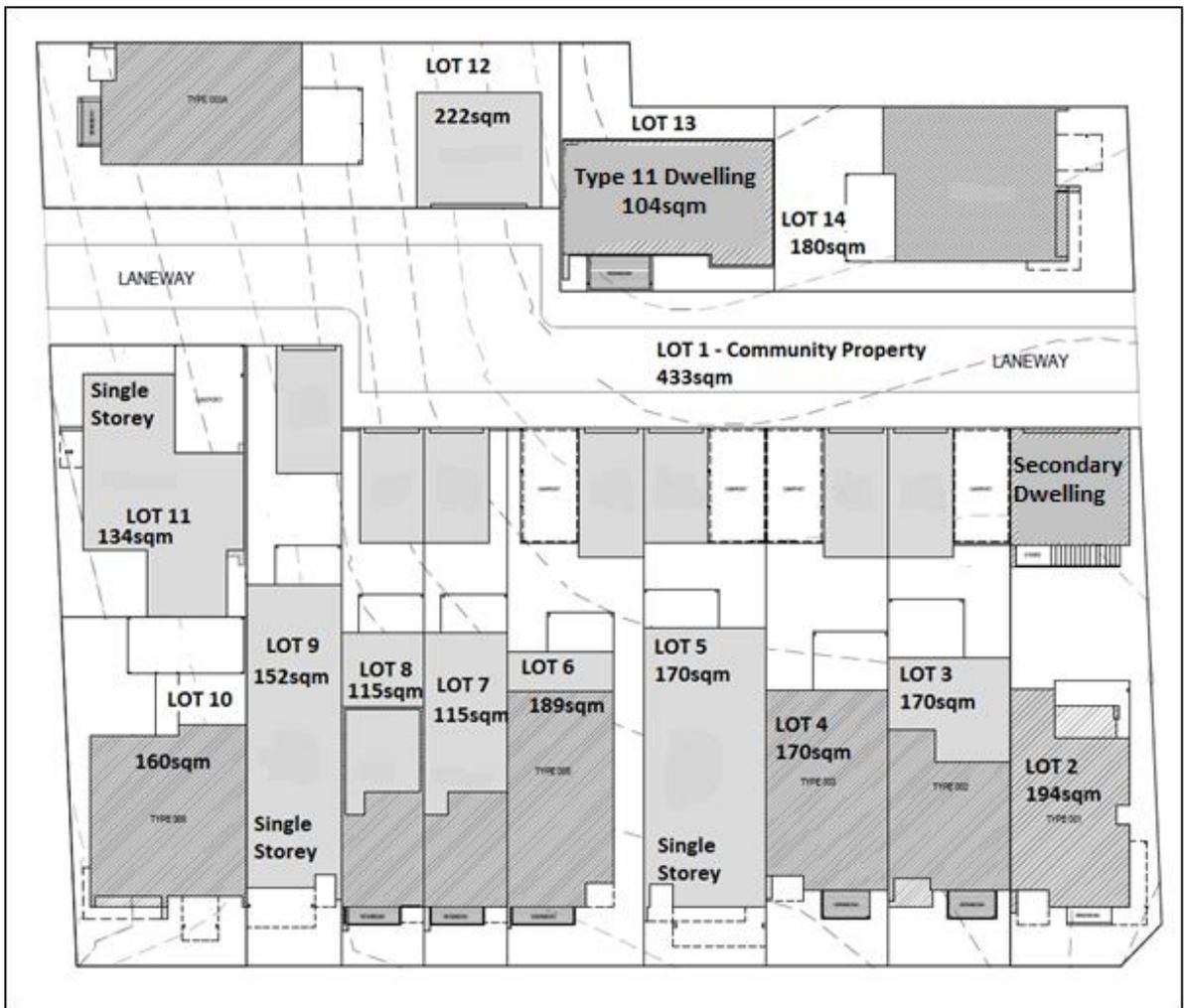
Figures 7 and 8 - Lot 784 – Subdivision and Dwellings (North and South)



Proposed Community Title Subdivision of Lot 785

Lot 785 is an existing un-registered super lot approved under development consent 233-2012/A (DA#2). It is proposed to subdivide Lot 785 into 3 x super-lots and create a Community Title Scheme on proposed super lot 1. The Community Scheme is proposed to contain 13 x Development Lots (ranging in size from 104m² to 222m²), and 1 x Community Lot (433m² laneway). Each Community Development lot will contain a dwelling, including 1 x above-garage semi-detached “Type 11 Dwelling” and 1 x secondary dwelling. Further, each of the 14 x dwellings is proposed to be an exhibition home, making up an exhibition village. (Refer to Figure 9 below).

Figure 9 - Lot 785 – Subdivision and Dwellings



Construction Works

- a) Undertake all subdivision works within Stage 6 comprising site preparation and grading, tree removal, utilities augmentation, drainage, road construction and landscaping.
- b) Undertake all works to construct 81 x dwellings in Stage 3B, including the establishment of associated laneways and landscaping.
- c) Construct and use a temporary construction compound and site access roads.

Open Space Facilities

The proposed subdivision of Stage 6 will also deliver and dedicate to Council open space as follows:

- a) Local Park 3;
- b) Drainage Reserve 8; and
- c) Public open space adjoining Montgomery Creek to incorporate riparian zone planting and rehabilitation as required, and informal recreation space.

Summary of Contentious Aspects of the Proposed Development

Stage 3B Subdivision – 4 x Community Title Schemes and 81 x Dwellings

The applicant seeks to introduce two new, distinct and yet related development concepts not envisioned for the Googong Township and not catered for in the established planning framework. As can be ascertained from the description and images above relating to the proposed 4 x Community Title Schemes and 81 x dwellings contained within them, the applicant is proposing to:

1. Create 14 x residential lots (Community Development lots) that are less than 170m², which is the minimum lot size currently permitted in Googong; and
2. Construct a dwelling type on 7 of the 14 x lots <170m² that resembles an above-garage secondary dwelling, but is in fact a separately titled semi-detached dwelling that has generally poor levels of amenity, mainly due to a lack of private open space. These dwellings are referred to by the applicant as a 'Fonzie Flat' and should not be confused with the 5 x proposed secondary dwellings that are also located above garages but will not be separately titled. Nonetheless, these secondary dwellings also have amenity issues relating to private open space.

The above aspects of the proposed development are extensively elaborated on and discussed throughout the rest of this Report.

The following reports have accompanied the development application and were used throughout the planning assessment:

- Volume 01 - Supporting documents prepared by Elton Consulting – October 2013.
- Volume 02 – Subdivision Plans for approval prepared by Elton Consulting – October 2013.
- Volume 03 – Housing Plans for approval prepared by Elton Consulting – October 2013.
- Statement of Environmental Effects prepared by Elton Consulting – October 2013.

- Applicant’s written response to additional information matters raised - dated 15 January 2014.
- Applicant’s written response to additional information matters raised - dated 6 February 2014.
- Applicant’s written response to additional information matters raised - dated 24 February 2014.
- Additional Subdivision Plan for Lot 783 showing proposed super lots 1 – 4.
- Generic Stratum Subdivision Plan provided for clarification.

Statutory Assessment

Assessment of the subject Development Application has been undertaken in accordance with the *Environmental Planning and Assessment Act 1979* (“the Act”), as amended, specifically including:

- a) Section 4B – Subdivision of land;
- b) Section 5 – Objects;
- c) Section 5A - Significant effect on threatened species, populations or ecological communities, or their habitats;
- d) Section 80 – Determination;
- e) Section 79C – Evaluation; and
- f) Section 91 – What is “integrated development”?

Section 4B – Subdivision of land

The definition of the subdivision of land and the interpretation of the applicable Queanbeyan Local Environmental Plan 2012 (the LEP) clauses relating to subdivision are crucial matters in the consideration of the proposed subdivision of Stage 3B. This is because each of the proposed 4 x Community Title Schemes contain Community Development lots that are less than the minimum lot size prescribed for the subject site in the LEP. Moreover, Council and the applicant have taken opposite views in their interpretation of the applicability of minimum lot size controls to the creation of Community Title Schemes.

Definition of Subdivision

For the purposes of the Act, subdivision of land means the division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. This includes the registration of a plan of subdivision within the meaning of section 195 of the *Conveyancing Act 1919*, a Strata Plan (creation of a strata scheme), and a Strata Plan of Subdivision (subdivision of an individual lot within an already created Strata Plan) within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

The definition of a plan of subdivision in section 195 of the *Conveyancing Act 1919* extends to various kinds of plan under the *Community Land Development Act 1989*, including Community Plans (creation of a community scheme), and Community Plans of Subdivision (subdivision of an individual development lot within an already created community plan).

Under the *Community Land Development Act 1989*:

- A community scheme is defined partly as: “*the manner of subdivision of land by a community plan*”;
- A community plan means: “*a plan for the subdivision of land into 2 or more community development lots and 1 other lot that is community property, whether or not the plan includes land that, on registration of the plan, would be dedicated as a public road, a public reserve or a drainage reserve*”; and
- A community plan of subdivision means: “*a plan (other than an acquisition plan) for the subdivision of a community development lot into 2 or more community development lots and no other lot or lots.*”

Section 5 of the *Community Land Development Act 1989* states:

Land that is not part of a community parcel, precinct parcel, neighbourhood parcel or strata parcel may be subdivided by the registration of a community plan as a deposited plan.

Clearly, the part of the proposed development that proposes the creation of 4 x Community Title Schemes in Stage 3B constitutes the subdivision of land as defined under the Act by the registration of a Community Plan as a Deposited Plan. The submitted indicative Community Plans show the subdivision of land into two or more Community Development lots and one other Community Property lot (laneway).

Discussion of Community Title Schemes – Use and Purpose

The purpose of the *Community Land Development Act 1989* is to enable shared property to be created within the realm of conventional subdivisions—a form of common interest subdivision. Subdividing land under the *Community Land Development Act 1989* creates a legislated layer of management, i.e., a Community Management Plan and Community Association, which is needed to manage the community facilities that the individual lot owners collectively own. In all other respects, the individual lot owner’s land title is the same as a conventional Torrens Title freehold lot.

Members of a Community Title Scheme own their individual lot and are responsible for the maintenance of their lot and dwelling the same as in a conventional Torrens Title subdivision. However, each lot owner also contributes fees to a Community Management Association to maintain shared facilities and infrastructure such as private access ways, leisure facilities, open space et cetera. The appeal of Community Schemes (especially at a large scale) is the provision of facilities or a standard of development that individual lot owners would otherwise be unable to afford or maintain.

Community Title Schemes have higher recurrent costs than standard Torrens Title lots due to individual lot owners having to contribute to the maintenance costs of community facilities/assets and the management of the community association. Maintenance costs are often applied to common property, such as internal roads, that would otherwise be borne by the local Council. There is also the requirement for individual lot owners to have an ongoing interaction with each other in a legally binding way beyond that required under normal Torrens Title subdivision. As such, there should be a compelling reason, a **common interest**, in creating a Community Scheme.

The question needs to be asked, is the subject proposal providing additional amenity and facilities than would otherwise be provided under conventional subdivision, or are the Community Title Schemes only being used to attempt to circumvent minimum lot size controls to attain a higher lot yield? The clear answer is that the proposed 4 x Community

Title Schemes and the 81 x dwellings proposed within them are not providing any tangible additional amenity and/or facilities above what is, or will be, provided to any other resident in the Googong Township. The only shared facility in the Schemes are the laneways that provide access to the rear of each Community Development lot. Laneways are identified on the Neighbourhood 1A Structure Plan and can be readily provided without the need for Community Title Schemes. Residents within these Schemes will have the burden of paying to maintain internal laneways, including their lighting and landscaping, that would otherwise be maintained by Council as public roads.

Section 5 – Objects

The objects of the Act are:

(a) To encourage:

- (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) The promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) The protection, provision and co-ordination of communication and utility services,*
- (iv) The provision of land for public purposes,*
- (v) The provision and co-ordination of community services and facilities, and*
- (vi) The protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- (vii) Ecologically sustainable development, and*
- (viii) The provision and maintenance of affordable housing, and*

(b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and

(c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.

The proposed development is considered to be generally consistent with the objects of the Act, except for those listed at sub-clauses (a)(i) and (a)(ii). The part of the proposed development that involves the creation of 4 x Community Title Schemes each contain numerous Community Development lots that are less than the required minimum lot size under the LEP, Googong Development Control Plan and Googong Master Plan.

As will be outlined later in this Report under a discussion of the LEP, the applicant contends that the minimum lot size controls in the LEP are not applicable to the creation of Community Title Schemes. Even if this interpretation is accepted, in Council's considered opinion, the part of the subject application that includes the creation of 4 x

Community Title Schemes is not in accordance with objects (a)(i) and (a)(ii) of the Act in that it does not represent or encourage the proper management and development of the Googong Township, and does not represent or encourage the promotion and co-ordination of the orderly and economic use and development of land.

Discussion of the Correct Process to Achieve the Strategic Aims for the Development of Googong Township

The Googong urban release area was identified in Queanbeyan City Council's *Queanbeyan Residential and Economic Strategy 2006 - 2031* (the Strategy) to provide affordable housing to meet the growing population of Queanbeyan. These are key strategic development aims for Queanbeyan.

The development of Googong has been the subject of an extensive and detailed strategic planning process involving lengthy negotiations and consultations. The result of this process is the articulation of a clear vision for the development of Googong Township that incorporates the strategic development aims for Queanbeyan. The Googong vision is reflected in the LEP, VPA, Master Plan, Neighbourhood Structure Plan, and Googong DCP.

The subject Development Application seeks to depart from the clear vision for Googong in a fundamental way by proposing residential development in higher densities than is clearly intended in all of the applicable planning instruments and policies developed over the past several years.

It is Council's strong view that the correct process for a consideration of higher density residential development within the Googong Township is through strategic planning mechanisms, such as, but not limited to, seeking an amendment to the LEP, *not* through an individual development application under Part 4 of the Act. This represents ad-hoc planning and, if approved, would set a precedent for the development of the rest of the Googong Township without a wider consideration of whether higher density residential development is appropriate for Googong. The applicant has been consistently advised of this by Council, including well before the lodgement of the subject application.

Support for Council's position regarding correct process can be taken from a recent Gateway Determination issued by NSW Planning and Infrastructure on 14 March 2014. This relates to a Planning Proposal submitted by Queanbeyan City Council that specifically includes minimum lot sizes for Community Title development. This will remove any doubt about the application of the LEP Lot Size Map to the creation of new Community Title Schemes. Planning and Infrastructure specifically advises Council in the Gateway Determination to "*give consideration to the potential to accommodate lots smaller than 170m² in certain locations where appropriate*".

If the developer of the Googong Township had submitted a Planning Proposal to amend the minimum lot size controls in the LEP when they were first advised of Council's position on the correct process for its consideration, it is likely that considerable progress would have been made by now. Instead, the developer has chosen to submit the subject Part 4 application.

Mechanisms to Achieve Affordable Housing

In the submitted Statement of Environmental Effects (SEE) (pp. 98-100), and various other correspondence with Council, the applicant strongly argues that there is increasing demand for a greater variety of affordable housing options, including medium and high

density development, in urban release areas such as Googong. The applicant references the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (the Growth Centres SEPP) as allowing lot sizes as small as 125m² and studio dwellings—known as ‘Fonzie flats’—located above garages in new housing developments that are strata subdivided from the main house so they can be sold separately. The proposed development includes 7 x ‘Fonzie flats’ (“Type 11” Dwellings) located on individual Community Development lots with areas as small as 89m², and goes further than what is allowed under the Growth Centres SEPP by also proposing 2 x attached dwellings on 115m² lots. A total of 14 x lots are <170m², which is smallest lot size permitted under the LEP in the Googong urban release area.

The Growth Centres SEPP is part of a broad reaching strategic approach that seeks to coordinate the release of land for residential, employment and other urban development in the North West and South West growth centres of the Sydney Region. These centres are projected to house 500,000 people over the next 25 years. In order to achieve the strategic aims of the Growth Centres SEPP mechanisms such as permitting quite small lot sizes and separate titling of studio type dwellings are employed.

The strategic aims articulated for the development of the Googong Township include the accommodation of approximately 16,000 people in approximately 5,500 dwellings over the next 20 - 25 years; and the provision of at least 10% of all dwellings as Affordable Housing Packages. In order to achieve these strategic aims, mechanisms in the LEP such as permitting smaller lot sizes in close proximity to commercial centres and providing controls for small lot housing in the Googong DCP have been provided.

The applicant has not put forward any argument as to why mechanisms similar to those applied to achieve the the strategic aims of the Growth Centres SEPP should be applied in the Googong Township in order to achieve the projected population and density targets outlined in the strategic aims for Googong. Simply translating similar mechanisms from a policy developed specifically for the Sydney metropolitan region to the Queanbeyan region in an ad-hoc fashion does not constitute the orderly development of land.

The applicant also states that 50% of the proposed dwellings will meet the threshold of Affordable Housing, while also providing a range of housing types and price points to create social diversity and opportunity. The VPA requires 10% of dwellings in Googong Township to be sold as Affordable Housing Packages.

Certainly, achieving the provision of more housing that is affordable to broad sections of the community is desirable. However, it is erroneous to state that achieving this justifies the use of mechanisms that are not permitted or catered for in the applicable planning instruments and policies. A consideration of whether the introduction of additional mechanisms are appropriate is correctly done in the context of a consideration of the strategic aims of the development of Googong Township as a whole, and not limited to a particular development application. Therefore, in the assessment of the subject application, Council has not formed a view on the particular merits or otherwise of the proposed creation of residential lot sizes smaller than what is currently envisioned for Googong Township in order to achieve higher lot yields and smaller, cheaper housing.

The correct process for any reconsideration of permissible lot sizes and desired residential density is not through the narrow prism of an individual development application, regardless of any arguments about the provision of affordable housing and regardless of the design quality and amenity of any individual dwellings.

If approved, the proposed Community Title Schemes in Stage 3B would set a precedent for the development of the rest of the Googong Township without a wider consideration of whether higher density residential development is appropriate for Googong.

Implications of Precedent

It is clear that if the proposed Community Title Schemes are approved, the applicant is likely to use this precedent to pursue similar development in other parts of Googong Township. This likelihood is supported, perhaps inadvertently, by the submitted Lot Mix and Staging Plans (Volume 02 – Subdivision Plans for Approval). They show indicative individual lots within the proposed super lots in Stage 6 and Stage 3B that do not comply with the minimum lot size controls in the LEP, including lots in Stage 6 that are clearly well under 330m² and located some distance outside of the areas identified for medium to high density residential development which allow for a minimum lot size of 170m².

The clear intention of the applicant is to pursue lot sizes smaller than what is currently permitted in order to achieve higher lot yields and smaller, cheaper housing through the widespread use of Community Title Schemes in an attempt to circumvent minimum lot size controls, thereby increasing housing densities in Neighbourhood 1A through the progressive subdivision of super lots in individual development applications, rather than by revisiting appropriate lot sizes and residential densities through the strategic planning process, such as an amendment to the LEP.

Consequences of Refusal of Stage 3B Subdivision

If agreed to by the Panel, the refusal of the subdivision of land in Stage 3B would also necessarily mean the refusal of the proposed construction of all of the 81 x dwellings proposed within the Community Title Schemes as there would be no approved lot for them to be located on. Furthermore, the existing un-registered super lots 782 and 784 approved under development consent 233-2012 (DA#2) would remain unchanged and could be the subject of a separate application in the future.

Section 5A - Significant effect on threatened species, populations or ecological communities, or their habitats

There will be no significant effect on threatened species, populations or ecological communities, or their habitats from the proposed development. Previous investigations into flora and fauna and their habitats have identified areas within the Googong Township subject to ecological constraint, specifically areas of high quality habitat for the Pink-tailed Worm-lizard (*Aprasia parapulchella*), which is listed as a vulnerable species under the NSW *Threatened Species Conservation Act 1995* and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*. This area is outside of the subject site (Stage 6 and Stage 3B of Neighbourhood 1A) – refer to the Environmental Habitat Plan in Volume 02 – Subdivision Plans for Approval.

Section 79C – Evaluation

Clause 1 – Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) *The provisions of:*

(i) *Any environmental planning instrument, and*

- (ii) *Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) *Any development control plan, and*
- (iiia) *Any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*
- (iv) *The regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) *Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*
- (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.*

Section 79C – Evaluation (cont)

Clause (1)(a)(i) – Any Environmental Planning Instrument

The following environmental planning instruments have been considered in the planning assessment of the subject Development Application:

- a) State Environmental Planning Policy No 55 – Remediation of Land.
- b) State Environmental Planning Policy (Infrastructure) 2007.
- c) State Environmental Planning Policy (BASIX) 2004.
- d) State Environmental Planning Policy (State and Regional Development) 2011.
- e) Queanbeyan Local Environmental Plan 2012.

State Environmental Planning Policy No 55 – Remediation of Land

The objectives of this Policy are summarised as follows:

1. To provide for a state wide planning approach to the remediation of contaminated land; and
2. To promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Pursuant to the *Clause 7 - Contamination and remediation to be considered in determining development application*, the consent authority must consider:

- a) *Whether the land is contaminated; and*
- b) *If the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.*

A Contamination Survey prepared by Agsol Pty Ltd, August 2009 carried out for Neighbourhood 1A did not identify any areas of environmental concern (AEC) within the Stage 6 development area or the areas within Stage 3B proposed under the subject application to be further subdivided and have 81 dwellings constructed. Nonetheless, it should be noted that site audit statement No 12058 SAR 191, dated 18th of October 2013 and prepared by Ron Harwood, advises that neighbourhood 1A part Lot 12, part Lot 13 and part Lot 14 in DP 1164687, part Lot 1 in DP 1149329 and part Lot 6 in DP 2554892 is suitable for the following:

- Residential with accessible soil, including garden (minimal home-grown produce contributing less than 10% fruit and vegetable intake), excluding poultry;
- Day care centre, preschool, primary school;
- Residential with minimal opportunity for soil access, including units;
- Secondary school;
- Park, recreational open space, playing field; and
- Commercial/industrial.

State Environmental Planning Policy (Infrastructure) 2007

This Policy provides a planning regime the provision of services and infrastructure in NSW, outlines requirements for consent authorities to consult with relevant public authorities during the assessment of Development Applications, and outlines provisions for various types of exempt and complying development.

Of potential relevance to the subject application are the provisions relating to traffic generating development which are defined in *Schedule 3 - Traffic generating development to be referred to the RTA* (now Roads and Maritime Services (RMS)). However, the proposed subdivision of land that forms a part of the subject application does not trigger the minimum thresholds for traffic generating development as it is not proposing 200 or more allotments and does not have access to a classified road or to road that connects to classified road (within 90m).

There are no other clauses in the Policy relevant to the subject application.

State Environmental Planning Policy (BASIX) 2004.

This Policy applies to the 81 x proposed dwellings buildings which are identified as BASIX affected development which require a BASIX certificate to accompany a development application. The applicant has submitted BASIX Certificates and shown the required information on the plans. Any consent granted for the proposed dwellings should be conditioned to comply with the commitments made in BASIX Certificates.

State Environmental Planning Policy (State and Regional Development) 2011

This Policy identifies development for which Joint Regional Planning Panels (JRPPs) are to exercise specified consent authority functions.

The capital investment value (CIV) of the proposed development is \$31,580,598 (>\$20 million). Clause 20 of this Policy references Schedule 4A of the *Environmental Planning and Assessment Act 1979*, which states that where the capital investment value of the development exceeds \$20 million and the proposed development must be determined by the Joint Regional Planning Panel – Southern.

Queanbeyan Local Environmental Plan 2012

The Queanbeyan Local Environmental Plan 2012 (the LEP) was gazetted on 23 November 2012. It repealed the Queanbeyan Local Environmental Plan (Googong) 2009. Clauses relevant to the proposed development are discussed below.

Part 1 – Preliminary

Clause 1.2 – Aims of Plan

The aims of this Plan are as follows:

- a) *To facilitate the orderly and economic use and development of land in Queanbeyan based on ecological sustainability principles,*
- b) *To provide for a diversity of housing throughout Queanbeyan,*
- c) *to provide for a hierarchy of retail, commercial and industrial land uses that encourage economic and business development catering for the retail, commercial and service needs of the community,*
- d) *To recognise and protect Queanbeyan's natural, cultural and built heritage including environmentally sensitive areas such as Queanbeyan's native grasslands, the Queanbeyan River and Jerrabomberra Creek,*
- e) *To protect the scenic quality, views and vistas from main roads and other vantage points within Queanbeyan of the escarpment and Mount Jerrabomberra,*
- f) *To maintain the unique identity and country character of Queanbeyan,*
- g) *To facilitate the orderly growth of the urban release area in Googong in a staged manner that promotes a high level of residential amenity and the timely provision of physical and social infrastructure through appropriate phasing of the development of land.*

The proposed development is considered to be generally consistent with the aims of the LEP, except for aim (g), which is relevant specifically to the Googong urban release area.

As discussed previously in this Report, the proposal to use Community Title Schemes in the subdivision of Stage 3B in an attempt to circumvent the minimum lot size controls for residential lots in the Googong Township articulated in the LEP, Googong Master Plan and DCP, is not considered to represent or facilitate the orderly growth of the Googong urban release area and is contrary not only to a specific aim of the LEP but to two clear objectives of the Act.

The proposed subdivision of land in Stage 3B and associated construction of 81 x dwellings is therefore recommended for refusal.

Clause 1.3 – Land to which Plan applies

The subject land is identified on the Land Application Map as being land to which the LEP applies.

Clause 1.4 – Definitions

The proposed development is defined in the LEP's dictionary as being for dwelling-houses, attached dwellings, semi-detached dwellings, secondary dwellings (which are all

types of residential accommodation), exhibition home, exhibition village, earthworks and roads.

- **dwelling house** means a building containing only one dwelling.
- **attached dwelling** means a building containing 3 or more dwellings, where:
 - a) each dwelling is attached to another dwelling by a common wall, and
 - b) each of the dwellings is on its own lot of land, and
 - c) none of the dwellings is located above any part of another dwelling.
- **semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling.
- **secondary dwelling** means a self-contained dwelling that:
 - a) is established in conjunction with another dwelling (the **principal dwelling**), and
 - b) is on the same lot of land as the principal dwelling, and
 - c) is located within, or is attached to, or is separate from, the principal dwelling.
- **attached dwelling** means a building containing 3 or more dwellings, where:
 - a) each dwelling is attached to another dwelling by a common wall, and
 - b) each of the dwellings is on its own lot of land, and
 - c) none of the dwellings is located above any part of another dwelling.
- **exhibition home** means a dwelling built for the purposes of the public exhibition and marketing of new dwellings, whether or not it is intended to be sold as a private dwelling after its use for those purposes is completed, and includes any associated sales or home finance office or place used for displays.
- **exhibition village** means 2 or more exhibition homes and associated buildings and places used for house and land sales, site offices, advisory services, car parking, food and drink sales and other associated purposes.
- **earthworks** means excavation or filling.
- **road** means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.

Note: The proposed development is also defined as subdivision of land. Refer to clause 2.6 later in this Report.

Clause 1.6 – Consent authority

As provided for under Schedule 4A of the *Environmental Planning and Assessment Act 1979*, the Joint Regional Planning Panel is the consent authority for the purposes of the LEP.

Clause 1.9A – Suspension of covenants, agreements and instruments

There are no agreements, covenants or other similar instrument that restrict the carrying out of the proposed development.

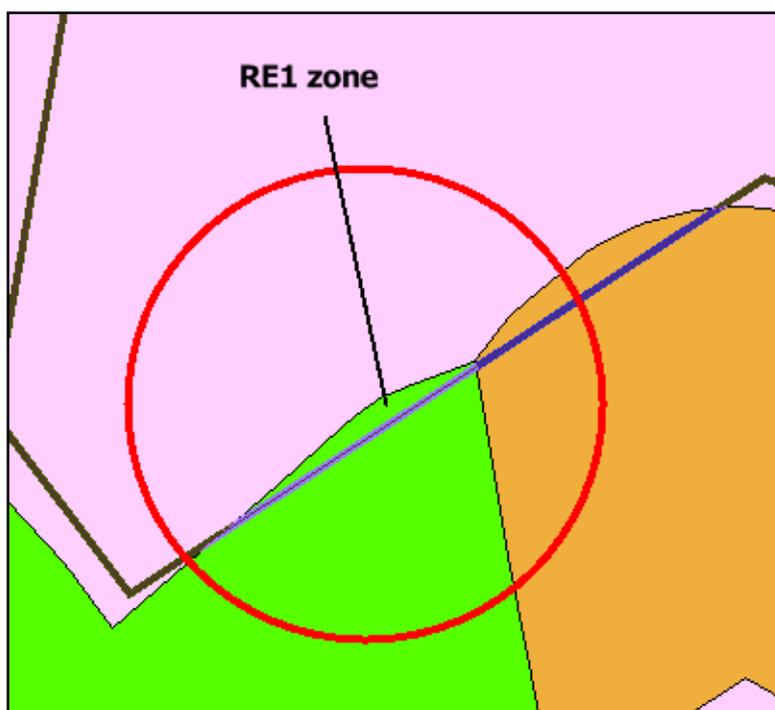
Part 2 – Permitted or Prohibited Development

Clause 2.2 – Zoning of land to which Plan applies

The majority of the subject site is shown on the Land Zoning Map as being zoned R1 – General Residential. A very small portion of land in the south-eastern corner of the site is zoned E2 – Environmental Conservation and RE1 – Public Recreation. The applicant originally submitted that only the R1 zone applied to the site. When asked to address the additional zonings the applicant submitted a revised Statement of Environmental Effects (SEE), however, this contended that the RE1 zone did not in fact apply and submitted a zoning overlay map to show this.

It is acknowledged that the RE1 zoned portion of the site is very small and difficult to accurately identify on the publicly available LEP zoning maps on the NSW Legislation website. However, a close examination of the zoning maps on Council’s internal GIS does reveal that approximately 100m² of the most southern portion of the site is in fact zoned RE1 – Public Recreation (refer to Figure 10 below).

Figure 10 – LEP Zone Map



Clause 2.3 – Zone objectives and Land Use Table

The consent authority must have regard to the objectives of the zone when determining a development application. The objectives of each applicable land use zone are listed below.

R1 – General Residential

- a) *To provide for the housing needs of the community.*
- b) *To provide for a variety of housing types and densities.*
- c) *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- d) *To ensure that buildings with non-residential uses have a bulk and scale that is compatible with the zone's predominantly residential character.*
- e) *To promote walkable neighbourhoods and a sense of community.*
- f) *To ensure that where possible, development maintains existing bushland.*
- g) *To encourage medium to high density housing located in close proximity to the town and village centres.*

Attached dwellings, semi-detached dwellings, dwelling-houses, secondary dwellings, exhibition homes and villages, and roads are permissible in the R1 zone with development consent. Earthworks are considered to be ancillary to these land uses as well as ancillary to subdivision.

The majority of the Googong urban release area is currently zoned R1. It is a zone that is suitable to be applied in a rather blanket fashion to an urban release area as its objectives and permissible land uses are very broad. Over time, as the Googong Township is developed, it is anticipated that a wider variety of residential land use zones will be introduced as deemed necessary under future reviews of the LEP.

The proposed development is considered to be generally consistent with the objectives of the R1 zone, except for the objective listed at sub-clause (g) to encourage medium to high density housing located in close proximity to the town and village centres. This objective is a reflection of the vision for Googong Township contained in the Googong Local Voluntary Planning Agreement, LEP, Master Plan and DCP for a clear hierarchy of residential densities.

The part of the proposed development that involves the subdivision of land in Stage 3B to create of 4 x Community Title Schemes and the associated construction of 81 x dwellings is not consistent with objective (g) of the R1 zone for the following reason:

- It includes individual residential lots that are less than 330m² and outside of the areas identified in the LEP as being located in close proximity to the town and village centres and suitable for medium to high density housing on lot sizes less than 330m². This undermines the clear hierarchy of residential densities contained in the LEP and other relevant planning policies and documents.

The proposed subdivision of land in Stage 3B and associated construction of 81 x dwellings is therefore recommended for refusal.

E2 – Environmental Conservation

- a) *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- b) *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*
- c) *To protect threatened species and rivers, creeks and gully ecosystems within Queanbeyan.*

- d) *To identify and protect escarpment areas that enhance the visual amenity of Queanbeyan and possess special aesthetic or conservational value.*
- e) *To protect water quality by preventing inappropriate development within catchment areas.*

The portion of land within the subject site zoned E2 aligns with the Montgomery Creek riparian corridor. Part of Drainage Basin 8 and Helen Street are proposed to encroach into the corridor. A compensatory vegetated off-set area is proposed west of Helen Street. The encroachment and off-set are supported and will be discussed in detail later in this Report. The construction of roads is permitted with consent in the E2 zone. The creation of Drainage Basin 8 is considered to constitute ancillary earthworks to the subdivision of land, which, pursuant to clause 2.6 of the LEP is permissible with development consent to all land to which the LEP applies.

The proposed development is considered to be generally consistent with the objects of the E2 zone. As will be discussed in detail later in this Report, the impacts on the Montgomery's Creek riparian corridor have been considered by both Council staff and the NSW Office of Water as being acceptable and able to be satisfactorily minimised, managed, and mitigated.

RE1 – Public Recreation

- a) *To enable land to be used for public open space or recreational purposes.*
- b) *To provide a range of recreational settings and activities and compatible land uses.*
- c) *To protect and enhance the natural environment for recreational purposes.*

The portion of land within the subject site zoned RE1 aligns with the Montgomery Creek riparian corridor. However, unlike the E2 zoned portion, no actual works associated with the proposed development will occur in the RE1 portion. This small area, approximately 100m², forms part of the vegetated off-set area associated with works encroaching into the riparian corridor to the east. It will form part of a larger public open space area and may be subject to appropriate riparian zone planting and/or rehabilitation that could be required under a Controlled Activity Approval under the *Water Management Act 2000*. A public park, reserve and the like are defined as a **recreation area** in the LEP, which are permissible in the zone with development consent. Should development consent be granted to the Stage 6 subdivision, any specific landscaping of the larger public open space area will be the subject of a further approval from Council as part of the Construction Certificate – Subdivision.

Given the above, the proposed development is therefore considered to be generally consistent with the objects of the RE1 zone.

Clause 2.6 – Subdivision—consent requirements

This clause states that the subdivision of land requires development consent. The proposed development includes the subdivision of land to create Torrens Title residential allotments within Stage 6 of Neighbourhood 1A and Community Title residential and community allotments with Stage 3B. Stratum subdivision of several buildings containing semi-attached dwellings on 7 x Community Title allotments is also proposed.

Part 4 – Principal Development Standards

Clause 4.1 – Minimum subdivision lot size

The objectives of this clause are as follows:

- a) *To ensure subdivision is sensitive to land, heritage and environmental characteristics (including water quality, native flora and fauna and places or items of Aboriginal and European heritage value);*
- b) *To ensure subdivision does not adversely impact on the functions and safety of main roads;*
- c) *To provide lots with areas and dimensions that enable the appropriate siting and construction of a building and associated works to minimise and avoid the threat of natural hazard (including bush fire, soil instability and flooding) and to protect significant vegetation and prominent or significant landscape qualities;*
- d) *To ensure new lots have an adequate water supply and can be provided with an effective means of disposal of domestic waste and adequately serviced; and*
- e) *To create lots that are compatible with the existing predominant lot pattern or desired future character of the locality and to minimise the likely adverse impact on the amenity of adjoining developments.*

Sub-clause 4.1(2), (3) and (4) state as follows:

(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

(4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

In order to simplify the reporting of the assessment of the proposed development against the objectives and development standards contained in Clause 4.1, the proposed subdivision of land in Stage 3B on super lots previously approved under (DA#2) will be separated from the proposed subdivision of land in Stage 6 (a stage of Neighbourhood 1A that is not subject to a previous development consent).

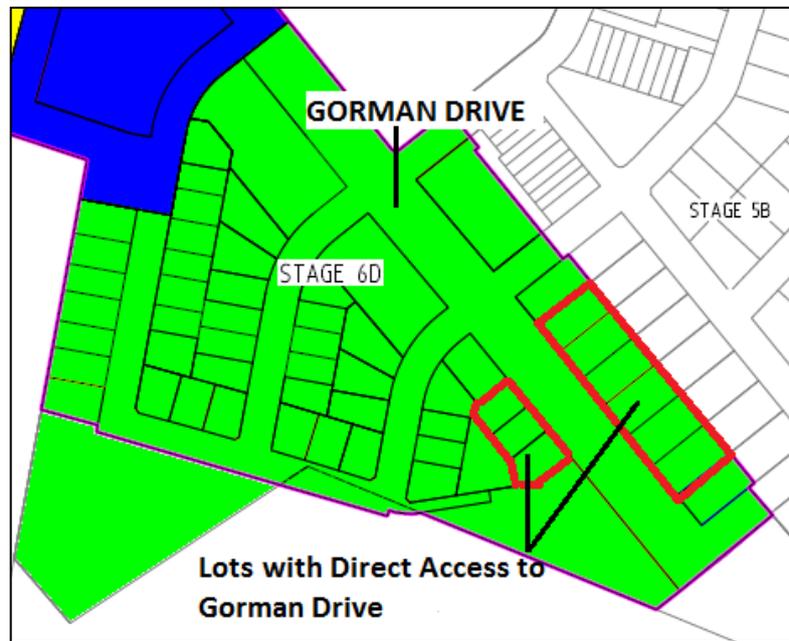
Stage 6 of Neighbourhood 1A Subdivision

The Stage 6 part of the subject site is identified on the Lot Size Map as requiring a minimum lot size of 330m². All proposed 72 x residential lots within Stage 6 meet the minimum lot size requirement, ranging from 337.5m² up to 700m².

The proposed Stage 6 subdivision has been assessed against the objectives of Clause 4.1. Generally, due regard has been given to the environmental constraints on the land, lot sizes and dimensions are appropriate for siting of structures, lots can be adequately serviced, and the proposal is compatible with the desired future character of the locality. However, Council considers that objective (b), which requires subdivision to not adversely impact on the functions and safety of main roads, has not been fully achieved as outlined below.

The safety and functions of a Gorman Drive (AV1), which is a Local Arterial Road, is considered to be compromised by the inclusion of 9 x residential lots in Stage 6D which have direct vehicular access from Gorman Drive. Council's Senior Engineer—Development does not support this (see Figure 11 below).

Figure 11 - Lots with Direct Access to Gorman Drive



This inconsistency with the objective (b) of Clause 4.1 will become clearer later in this Report during the assessment of the proposal against the provisions of the Googong Development Control Plan.

Should development consent be granted for the subdivision of Stage 6, it is recommended that the two separate blocks in Stage 6D that contain 9 x residential lots which have direct vehicular access from Gorman Drive be excluded. This will allow the applicant to consider alternative lot designs that do not compromise the functioning of Gorman Drive.

Subdivision of Land in Stage 3B through the Creation of Community Title Schemes

The Stage 3B part of the subject site is identified on the Lot Size Map as requiring a minimum lot size of either 170m² or 330m². Most, but not all, of the Community Development lots and Community Property lots within each proposed Community Title Scheme are located on land identified as “Additional Development Area” on the Googong Map. Pursuant to *Clause 4.1D – Variation to minimum lot size* lot sizes within this area are permitted to be a minimum of 170m².

Clause 4.1D – Variation to minimum lot size

The objective of this clause is to provide opportunities for affordable medium density housing in appropriate locations. The clause applies to the following land:

- a) *land within 200 metres of any land within Zone B2 Local Centre,*

b) land identified as “Additional Development Area” on the Googong Map.

Sub-clause 4.1D (3) states:

Despite clause 4.1, development consent may be granted for the subdivision of land to which this clause applies to create lots with an area of at least 170 square metres if the development application proposes the creation of at least 4 lots and includes a dwelling design for each lot.

The “Additional Development Areas” on the Googong Map are located in areas that are zoned R1 – General Residential which usually have a minimum lot size requirement of 330m². The “Additional Development Areas” are permitted to have a minimum lot size of 170m². These have been identified for a smaller minimum lot size than would otherwise be permitted to allow for a transition zone of medium density residential development, (lots between 170m² and 330m²), in close proximity to Neighbourhood Centres and the facilities and public transport options they provide. All of the 76 x individual Community Development lots for residential development contained in the 4 x proposed Community Title Schemes within Stage 3B also include the construction of a dwelling as part of the proposed development. Some 5 x lots also contain secondary dwellings located above detached garages—taking the total number of dwellings to 81.

All of the proposed Community Development lots are less than 330m²— ranging from 89m² to 316m² (including 10 x lots that are between 100m² and 170m², and 4 x lots that are less than 100m²). The 4 x Community Property lots (laneways) range in size from 433m² to 1206m².

Important Note: The originally submitted subdivision plans for the Community Title Schemes were inconsistent in their portrayal of the area (m²) of the Community Development lots proposed to be subject to further subdivision of buildings by way of a Stratum subdivision. Some of the affected lots areas referenced the Stratum lot size and not the Community Development lot size, and vice versa. Upon request for clarification, the applicant submitted revised subdivision plans. These consistently reference the Stratum lot size.

Council’s assessment has focussed on the Community Development lot size. This has been ascertained by an examination of the lot dimensions and areas on the architectural drawings, with reference to the lot dimensions shown on the subdivision plans. All references to lot sizes in the proposed Community Title Schemes herein are references to the proposed Community Development lot or the Community Property lot. Stratum lot sizes will only be referenced in discussions of floor area et cetera.

Discussion of the Applicability of Minimum Lot Size Controls to the Creation of Community Title Schemes

➤ *The Applicant’s Interpretation*

The applicant states that pursuant to sub-clause 4.1(4), the minimum lot size shown on the Lot Size Map does not apply to the **creation** of lots in a Community Title Scheme and has submitted legal advice in support of this. This advice is provided in Confidential Attachment 1 to this Report with the permission of the applicant.

The applicant further contends that as Clause 4.1 does not apply to the creation of Community Title Schemes then neither does Clause 4.1D. The applicant contends that the words “Despite clause 4.1” means that Clause 4.1 must first be applicable for Clause 4.1D to also be applicable. Council agrees that if Clause 4.1 is not applicable then neither is Clause 4.1D.

The submitted Statement of Environmental Effects (SEE) states as follows on page 82:

Notwithstanding the absence of specific lot size controls for strata or community title schemes, this proposal has been guided generally by the small lot controls where practical. The configuration of the development lots within the community title schemes are designed to offer greater housing diversity at a number of price-points to promote even greater social inclusion in the Googong Township.

Elsewhere in the SEE and in various communications with Council, the applicant argues that the importance of providing affordable housing is an important reason why the lot sizes and dwelling-types not catered for in any of the applicable planning instruments and policies should be supported.

➤ *Council’s Interpretation*

The applicability of *Clause 4.1 – Minimum lot size* and *Clause 4.1D – Variation to minimum lot size* of the LEP to the proposed **creation** of lots within Community Title Schemes hinges on the interpretation of sub-clause 4.1(4) which states:

This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

Council has given a large amount of consideration to this issue and sought its own legal advice. This is contained in Confidential Attachment 2. The literal interpretation of sub-clause 4.1(4) is that the exemption to clause 4.1 only relates to the subdivision of **individual** lots in a Strata Plan or Community Title Scheme, i.e., that the exclusion only applies if the land to be subdivided is **already** an individual lot in a Strata Plan or Community Title Scheme. Therefore, each lot **created** by the registration of a Strata Plan or Community Title Scheme must comply with the minimum lot size shown on the LEP Lot Size Map.

It should be noted that the literal interpretation of sub-clause 4.1(4) does not preclude Councils from identifying on the Lot Size Map minimum lot sizes specific only to lots created by the registration of a Strata Plan or Community Title Scheme if deemed appropriate.

It is acknowledged that it is possible sub-clause 4.1(4) was **intended** to mean that clause 4.1 does not apply to the subdivision of land to **create** individual lots in a Strata Plan or Community Title Scheme. This is the applicant’s interpretation. However, this would require the insertion into sub-clause 4.1(4) of the words ‘land to create’ as shown below:

This clause does not apply in relation to the subdivision of [land to create] individual lots in a strata plan or community title scheme.

Council is advised that as the LEP is a statutory instrument as defined under the *Interpretation Act 1987*, it should be interpreted in accordance with the general principles of statutory interpretation. This is particularly the case now that most LEPs (including the

Queanbeyan LEP 2012) are based on the provisions of the *Standard Instrument—Principal Local Environmental Plan*.

Interpreting the provisions of an LEP should start by giving the words used their ordinary meaning. This is supported in NSW case law cited by Council's legal advisor. As the ordinary meaning of the words in sub-clause 4.1(4) are reasonably clear, Council has been advised that departing from the literal interpretation should only occur if it can be clearly demonstrated that it did not conform to the legislative intention ascertained from the provisions of the applicable LEP as a whole.

The intention of the LEP in relation to this matter is one of two possibilities:

1. That the subdivision of all land should comply with the minimum lot sizes shown on the Lot Size Map unless the land to be subdivided is an individual lot within a Strata Plan or Community Title Scheme (Council's interpretation); or
2. That the subdivision of all land should comply with the minimum lot sizes shown on the Lot Size Map unless the subdivision is a subdivision of land by the registration of a Strata Plan or Community Title Scheme (the Applicant's interpretation).

It is acknowledged that the first alternative above can be said to be lacking in planning logic by requiring lots to comply with the Lot Size Map when they are first created, but excluding any subsequent subdivision of these lots from the need to comply. However, Council has been advised that the lack of planning logic should not necessarily determine the interpretation of the relevant provisions where their ordinary and literal meaning is clear. This is particularly the case in the interpretation of sub-clause 4.1(4) as any difficulties a literal interpretation may make can be remedied by the inclusion of additional appropriate provisions in the Lot Size Map.

Council has also been advised that there are only limited circumstances in which Courts have been prepared to read words into legislation, such as in this instance inserting the words 'land to create' into sub-clause 4.1(4). Council has been advised that this is unlikely to occur in relation to sub-clause 4.1(4) because:

1. The sub-clause does not need the addition of the words to give it meaning;
2. It is not obvious that the words have been omitted from the drafting of the sub-clause;
3. Adding the words alters the meaning of the sub-clause, rather than giving the clause meaning; and
4. If words were going to be implied, there is no certainty that these would be chosen over other words.

Summary of the Applicability of Clause 4.1 and 4.1D

Given all of the above, Council considers that the subdivision of land as defined in Section 4B of the Act must comply with the minimum lot size specified for the land on the Lot Size Map or as allowed for under Clause 4.1D—the only exception being if the land to be subdivided comprises an individual lot in a Strata Plan or Community Title Scheme.

It is recognised that the applicant has an alternative view to Council in relation to the applicability of minimum lot size controls to the creation of Community Title Schemes. However, even if the Panel were to prefer this view there are other strong merits grounds for refusal, including:

- a) Contravention of the objects of the Act listed at *Section 5 - Objects*, specifically objects (a)(i) and (a)(ii);
- b) Contravenes an environmental planning instrument (the Queanbeyan Local Environmental Plan 2012), by proposing to create lots sizes that are less than the required minimum prescribed in *Clause 4.1 – Minimum subdivision lot size* and *4.1D – Variation to minimum lot size*;
- c) Inconsistent with the aims of the aims of the Queanbeyan Local Environmental Plan 2012;
- d) Inconsistent with the objectives of the R1 – General Residential zone;
- e) Inconsistent with the objectives of *Clause 4.4 – Floor space ratio* of the LEP;
- f) Non-compliant with the several development controls of the Googong Development Control Plan;
- g) Inconsistent with the objectives of the Googong Master Plan as listed in Part 3 of the Googong Development Control Plan;
- h) Inconsistent with the Googong Urban Development Voluntary Land Planning Agreement (the VPA);
- i) Contrary to the public interest for numerous reasons;
- j) Negative cumulative impacts of the disorderly development of the Googong Township.

The reasons above will be further discussed throughout this Report and are expanded on in the Recommendation section.

Consideration of the Objectives of Clause 4.1 and 4.1D

It is Council's position that Clause 4.1 and 4.1D apply to the proposed subdivision of land in Stage 3B by the creation of Community Title Schemes. Therefore, it is also necessary to complete an assessment against the objectives of these clauses as listed below.

The objectives of *Clause 4.1 – Minimum subdivision lot size* are as follows:

- a) *To ensure subdivision is sensitive to land, heritage and environmental characteristics (including water quality, native flora and fauna and places or items of Aboriginal and European heritage value);*
- b) *To ensure subdivision does not adversely impact on the functions and safety of main roads;*
- c) *To provide lots with areas and dimensions that enable the appropriate siting and construction of a building and associated works to minimise and avoid the threat of natural hazard (including bush fire, soil instability and flooding) and to protect significant vegetation and prominent or significant landscape qualities;*
- d) *To ensure new lots have an adequate water supply and can be provided with an effective means of disposal of domestic waste and adequately serviced; and*
- e) *To create lots that are compatible with the existing predominant lot pattern or desired future character of the locality and to minimise the likely adverse impact on the amenity of adjoining developments.*

Generally, due regard has been given to the environmental constraints on the land and lots can be adequately serviced. However, it is considered that objectives (c) and (e), which require lots that have sizes and dimensions that are appropriate for the siting of structures, and lots that are compatible with the desired future character of the locality have not been satisfied.

The objective of *Clause 4.1D – Variation to minimum lot size* is:

To provide opportunities for affordable medium density housing in appropriate locations.

The proposed development is inconsistent with the objective of Clause 4.1D because it includes lot sizes less between 170m² and 330m² that are outside of the areas identified in this clause as being appropriate locations for medium density housing.

On page 82-83 of the submitted Statement of Environmental Effects (SEE) the applicant outlines how the objectives of Clause 4.1 and 4.1D are met by the proposed development, including the creation of Community Title Schemes in Stage 3B to which it is contended that these clauses do not apply:

Full regard has been taken of potential impacts on the heritage and environmental characteristics of the site to ensure that the subdivision pattern is appropriate and responds to any sensitive environmental aspects.

The design and layout of the proposed subdivision has occurred in consultation with traffic consultants, TTM Consulting, to ensure that lots created do not adversely impact on the function and safety of roads, either within the proposed development or in the surrounding area.

Full regard has been taken of the potential impacts of the proposal on natural hazards including bushfire, soil instability and stormwater drainage. Clear demonstration as to how these aspects have been considered and addressed in the subdivision is included in the accompanying reports which investigated bushfire, stormwater management and drainage analysis conditions prepared by EcoLogical Australia and Brown Consulting respectively.

Extensive infrastructure investigation and design has occurred to ensure that each lot can be serviced with water and wastewater infrastructure.

The subdivision has been designed to broadly reflect the Master Plan and NHIA structure plan embedded in the GDCP to ensure it delivers the desired future character, appropriate size, lot orientation and achieves minimal amenity impacts.

Council strongly disagrees that the proposed creation of Community Title Schemes in Stage 3B of Neighbourhood 1A meets the all of the objectives of Clause 4.1 and 4.1D, and will argue that regardless of whether the Lot Size Map applies to the creation of Community Title Schemes or not, there are there are other strong merits grounds strong which to refuse development.

The inconsistencies with the objectives of Clause 4.1 and 4.1D will becomes clearer during the course of this Assessment and is discussed in detail later in this Report during the assessment of the proposal against the provisions of the Googong Development Control Plan.

Clause 4.3 – Height of buildings

The objectives of this clause are as follows:

- a) *To ensure that the height of buildings complement the streetscape or the historic character of the area in which the buildings are located,*
- b) *To protect the heritage character of Queanbeyan and the significance of heritage buildings and heritage items,*
- c) *To nominate heights that will provide a transition in built form between varying land use intensities.*

The part of the proposed development that involves the erection of buildings is considered to be generally satisfactory with regard to the above objectives.

The height of any building is not to exceed the maximum height shown for the land on the Height of Buildings Map. The majority of the subject land is shown on this map as having a height limit of 8.5m. Within a 200m radius of the Neighbourhood Centre (land identified as an “Additional Development Area” on the Googong Map) the height limit is 12m.

The buildings proposed to be erected are between one and two storeys and are all less than 8.5m in height.

Clause 4.4 – Floor space ratio

The objectives of this clause are as follows:

- a) *To ensure that the density, bulk and scale of development is appropriate for a site,*
- b) *To ensure that the density, bulk and scale of development integrates with the streetscape and character of the area in which the development is located,*
- c) *To facilitate development that contributes to the economic growth of the Queanbeyan central business district, Googong town centre and Queanbeyan’s neighbourhood centres.*

The part of the proposed development that involves the erection of buildings is considered to be generally satisfactory with regard to the above objectives, but only in so far that the applicable FSR development standard has been complied with. More broadly, objectives (a) and (b) of the clause are considered to have not been fully satisfied in that the proposed subdivision of lots within Stage 3B of Neighbourhood 1A includes a density and scale of residential development that is inappropriate for the site and does not integrate with the intended character of the area identified in the LEP, Googong Development Control Plan, and Googong Master Plan.

The maximum floor space ratio (FSR) for a building on any land is not to exceed the FSR shown for the land on the Floor Space Ratio Map. The part of the subject land that is within a 200m radius of the Neighbourhood Centre (land identified as an “Additional Development Area” on the Googong Map) is subject to a maximum FSR of 1.5:1. The remainder of the land is not identified on the Floor Space Ratio Map.

Calculations of FSR are based on the provisions of *Clause 4.5 – Calculation of floor space ratio and site area*, and the proposed lot size areas for each Development Lot within which buildings are proposed to be erected. Sub-clause 4.5 (8) states that the gross

floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a FSR.

The buildings proposed to be erected all generally have a FSR of less than 1:1. For the 7 x Community Development lots that contain a building that includes an above garage semi-detached dwelling the maximum FSR proposed is 1.39:1. These buildings are all two storeys and located on Development Lots that are <100m².

Part 5 – Miscellaneous Provisions

Clause 5.4 – Controls relating to miscellaneous permissible uses

Sub-clause 5.4 (9) is relevant to the proposed secondary dwellings. It states that if development for the purposes of a secondary dwelling is permitted under the LEP, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- a) 60 square metres,
- b) 30% of the total floor area of the principal dwelling.

Secondary dwellings are only proposed within the part of the subject land that is zoned R1 – General Residential, which permits secondary dwellings with development consent. Each of the five proposed secondary dwellings has a floor area of between 33.4m² and 36m². No car parking for these dwellings is proposed, nor is it required.

Clause 5.9 – Preservation of trees or vegetation

The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation. The clause only applies to species or kinds of trees or other vegetation that are identified by a development control plan. The Googong Development Control Plan does not prescribe kinds of trees or other vegetation.

Most of the development site is grazing land. There are only occasional eucalypt trees and tree clumps scattered throughout the site. The tree quality of the site is poor. High quality trees identified in the Tree Assessment Report for the whole of Neighbourhood 1A will be preserved where appropriate. All other scattered vegetation is proposed to be removed.

The proposal seeks to specifically remove four trees, namely two dead *Eucalyptus sp.* trees and two poor quality *Pinus radiata* trees. It is considered acceptable that these be removed as part of the construction works. The landscaping plans propose the planting of a significant number of trees during the landscaping of the site.

Clause 5.10 – Heritage conservation

The objectives of this clause are as follows:

- a) *To conserve the environmental heritage of Queanbeyan,*
- b) *To conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- c) *To conserve archaeological sites,*

- d) *To conserve Aboriginal objects and Aboriginal places of heritage significance.*

Heritage items and archaeological sites are listed in Schedule 5 of the LEP and heritage conservation areas are shown on the LEP Heritage Map. None of these sites are impacted by the proposed development.

Sub-clause 5.10(7) requires the consent authority, before granting consent for the carrying out of development on an archaeological site, to:

- a) *Notify the Heritage Council of its intention to grant consent, and*
- b) *Take into consideration any response received from the Heritage Council within 28 days after the notice is sent.*

Archaeological investigations have been carried out for Neighbourhood 1A and reports submitted for (DA#1). There are no archaeological sites identified within the (DA#3) subject site.

Sub-clause 5.10(8) requires the consent authority, before granting consent for the carrying out of development in an Aboriginal place of heritage significance to:

- a) *Consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- b) *Notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

A number of Aboriginal objects have been identified within “Neighbourhood 1A” (which includes the proposed development site) by an Aboriginal Archaeological Report prepared by Navin Officer Heritage consultants, February 2010. The local Aboriginal communities were notified as part of this work.

Pursuant to Section 87 of the *National Parks and Wildlife Act 1974*, an Aboriginal Heritage Impact Permit (AHIP) No. 1116438 AHIMS No. 3299 was issued to the applicant by the NSW Office of Environment and Heritage (OEH) dated 13 July 2010, and variation AHIP No. 1116438. The AHIPs required the salvage of visible surface artefacts and allowed for the destruction of other Aboriginal objects identified in the permit.

The applicant has submitted documentation from their heritage consultants (Navin Officer) dated 14 February 2013 confirming that the conditions for AHIP No. 1116438 and variation AHIP No. 1116438 have been met. The salvage of identified sites is documented in the report *Googong Neighbourhood 1A Surface Salvage of Aboriginal Objects*.

The OEH further advised that there are another 17 recorded Aboriginal sites elsewhere within the Googong Township development area (outside Neighbourhood 1A) for which no AHIP has been issued. Further AHIPs will need to be obtained for future development outside of Neighbourhood 1A.

Part 6 – Urban Release Areas

Clause 6.1 – Arrangements for designated State and Territory public infrastructure

This clause requires satisfactory arrangements to be made for the provision of designated State and Territory public infrastructure before the subdivision of land in an urban release area. The Director General's Certificate – Satisfactory Arrangements for Designated State and Territory Public Infrastructure for the proposed development was issued on 12 March 2014.

Clause 6.2 – Public utility infrastructure

This clause states that development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

Council's Senior Engineer—Development has assessed the provision of public utilities and advises as follows.

Sewer

The development site is remote from the Queanbeyan sewerage network and the developer's Part 3A Water Cycle Project provides for the following –

- installation of a standalone wastewater recycling plant (WRP),
- installation of sewer pump stations (SPSs), and
- installation of sewer rising mains.

The subdivision release will be dependent on the provision of the WRP, SPS2 and rising mains. These facilities are currently being designed in consultation with Council.

The reticulation within the subdivision itself forms part of this DA and will comprise a gravity sewer system to provide individual service connections (junctions) to each proposed lot. The system proposed is a Low Infiltration Sewerage System utilising PVC-U pipe and fittings that will be compliant with Council's adopted engineering standards for this stage of Googong. The network will drain to SPS2, which is to be located directly east of Neighbourhood 1A to the south of Sportsfield 2. SPS2 is programmed to be constructed prior to completion of this subdivision.

Drinking Water Supply

The development is remote from the existing Queanbeyan water supply network. The Part 3A application to DOP provides for the construction of lead-in water supply infrastructure. For this release area the lead –in potable water supply will comprise –

- an off take on the Googong – Stromlo water supply trunk main near the Googong water treatment plant;
- the provision of a trunk rising main from the off take to a temporary potable water reservoir site (Hill 765) adjacent Old Cooma Road south of Googong Dam Road,
- a temporary potable water reservoir at Hill 765; and

- a trunk gravity fed water main from the reservoir site to the Stage 1 supply point near the Day 1 entry of the first stage subdivision (DA41-2011).

The Part 3A Googong Water Cycle Project was approved on 24 November 2011. Servicing of this DA is dependent on this lead in infrastructure. The temporary reservoir site is proposed to service an equivalent population of 3,600 and therefore is capable of supplying the entire Neighbourhood 1A area.

The reticulation within the subdivision itself forms part of this DA. The draft engineering plans submitted as part of the DA information provide a network and accompanying analysis for a typical standard looped system comprising 150 mm / 100 mm diameter mains with service connections to all lots. The reticulation will be an extension of the network currently being constructed as part of the Stage 3 subdivision (DA 233-2012). The layout is based on design demand assumptions previously discussed with Council staff, Water Services Association of Australia (WSAA) codes and Council's adopted engineering standards for Googong. The design is considered satisfactory, subject to full design detail being provided as part of the Construction Certificate – Subdivision. Temporary end caps with associated hydrants and stop valves will be provided where mains will be extended in future subdivisions.

Non-Drinking Water Supply

The applicant's water cycle management strategy is in part dependent on the installation of a non-potable (recycled) water supply, where treated sewer effluent is provided to each lot via a separate water supply network to the potable drinking water. To achieve this aim the developer's Part 3A Water Cycle Project provides for the following –

- the STP to be capable of supplying effluent to a standard suitable for reuse,
- the provision of a trunk rising main from the STP to a temporary non-drinking water reservoir site (also to be located at Hill 765),
- the temporary non-drinking water reservoir; and
- a trunk gravity fed non-drinking water main from the above reservoir to the Stage 1 supply point near the Day 1 entry.

Servicing of the proposed non-drinking water network in this DA is similarly dependent on this lead in infrastructure forming part of the Part 3A approval.

The non-drinking water reticulation within the subdivision itself forms part of this DA. The draft engineering plans submitted as part of the DA information provide a network and accompanying analysis for a typical standard looped system comprising 200 mm /150 mm / 100 mm diameter mains with service connections to all lots. As for the potable system, the reticulation will be an extension of the network currently being constructed as part of the Stage 3 subdivision (DA 233-2012). The layout is based on design demand assumptions previously discussed with Council staff, Water Services Association of Australia (WSAA) codes and Council's adopted engineering standards for Googong. The design is considered satisfactory, subject to full design detail being provided as part of the Construction Certificate – Subdivision. Temporary end caps with associated hydrants and stop valves will be provided where mains will be extended in future subdivisions. The mains and the service connections will be labelled in accordance with WSAA standards to delineate them from the

potable supply. Firefighting requirements will be met utilising the non-drinking water reticulation – Council is currently finalising a Memorandum of Understanding with Fire & Rescue NSW in this regard.

Utilities – Gas, Electricity and Telecommunication Services

The applicant has indicated that arrangements are in place for the supply of natural gas, electricity and telecommunication services. Natural gas supply will be an extension of the current Queanbeyan network, utilising a shared services trench to be established in conjunction with the upgrade of Old Cooma Road, to provide a supply line capable of servicing the entire Googong development. Similarly, telecommunications supply will be extended from Queanbeyan utilising the same service trench.

Existing electricity overhead supply lines will be diverted, with all electricity supply in the development to be underground. Street lighting shall be provided in accordance with AS/NZS 1158 and shall utilise best practice energy efficient globes approved by Essential Energy.

Assessing Officer's Summary

Given the comments from Council's Senior Engineer—Development it can be concluded that Council is satisfied that any essential public utility infrastructure for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required. In relation to sewage treatment, should development consent be granted, a condition will need to be imposed preventing the issue of the Subdivision Certificate until the wastewater recycling plant is satisfactorily operating.

Clause 6.3 – Development control plan

The objective of this clause is to ensure the development on land in an urban release area occurs in a logical and cost effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.

Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for matters specified in the clause has been prepared. Googong Development Control Plan came into effect in November 2010, with an amended Plan adopted in June 2013. It contains the Googong Master Plan (Part 3) and Structure Plan for Neighbourhood 1A. Refer to the Development Control section of this Report for further commentary.

Part 7 – Additional Local Provisions

Clause 7.1 – Earthworks

The objective of this clause is to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of the surrounding land.

Earthworks will be associated with site preparation and grading, and infrastructure construction works. There will also be minor earthworks associated with the construction of dwellings in Stage 3B. Site preparation and grading of Stage 3B was considered under (DA#2). A satisfactory Geotechnical Assessment that included Neighbourhood 1A was

prepared by Douglas Partners Pty Ltd in August 2009. Proposed site preparation and earthworks generally are outlined in this Report, with specifics relevant to Stage 6, including site management, are detailed in submitted Site Grading plans and Soil, water and Vegetation Management Plan prepared by Brown Consulting Pty Ltd.

Before granting development consent for earthworks the consent authority must consider the following matters:

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

The proposed earthworks within Stage 6 slopes are between 1-8%. Proposed site preparation and earthworks will not have an adverse impact on soil stability. A Stormwater Management and Drainage Analysis prepared by Brown Consulting Pty Ltd, September 2012 and revised in 2013 to include Stage 6 and a riparian corridor assessment advises:

The hydrological and hydraulic modelling has shown that the proposed residential subdivision and supporting roads can be constructed while meeting Queanbeyan Council, requirements for stormwater quantity and quality management. The objectives and performance targets (quantity and quality) are met using a mix of water sensitive urban design (WSUD) components throughout the subdivision, not limited to bio-retention basins, wetland ponds and detention storage.

If development consent is granted conditions will ensure protection of drainage patterns.

- b) *The effect of the development on the likely future use or redevelopment of the land,*

The proposed development is consistent with the identified future urban use of the land.

- c) *The quality of the fill or the soil to be excavated, or both,*

The quality of the fill or the soil to be excavated has been identified in the Geotechnical Assessment as satisfactory. The recommendations of the Assessment will need to be adhered to and will be conditioned should development consent be granted.

- d) *The effect of the development on the existing and likely amenity of adjoining properties,*

The site works are unlikely to impact on the existing and likely amenity of adjoining rural properties provided that appropriate conditions are imposed and complied with.

- e) *The source of any fill material and the destination of any excavated material,*

The source or destination of any fill material will be considered at the final engineering design stage.

- f) *The likelihood of disturbing relics,*

The site works will not disturb any known relics.

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

Groundwater was not encountered during the field investigations by Douglas Partners Pty Ltd. The NSW Office of Water has issued General Terms of Approval for works in the vicinity of Montgomery's Creek to construct Drainage Basin 8 and part of Helen Street. Impacts on this waterway will be further assessed and managed as part of a Controlled Activity Approval required to be obtained under the *Water Management Act 2000*. As stated above the Brown Consulting Stormwater Management and Drainage Analysis Report advises the development can meet standard stormwater quantity and quality management guidelines to ensure no adverse impacts will occur on any watercourse, drinking water catchment or environmentally sensitive area.

- h) *Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*

Appropriate measures will be conditioned should development consent be granted.

- i) *The proximity to and potential for adverse impacts on any heritage item, archaeological site, or heritage conservation area.*

The site works will not have any adverse impacts on heritage or known archaeological sites, or known potential archaeological deposits in the vicinity of the subject site provided recommended conditions are complied with.

In summary, the proposed earthworks will not have any detrimental impact on environmental functions and processes, neighbouring uses or heritage items and features of the surrounding land provided that any recommended consent conditions are complied with.

Clause 7.4 – Riparian land and watercourses

The subject land is identified on the Riparian Lands and Watercourses Map and is within 40 metres of Montgomery's Creek, a portion of which runs along the southern boundary of Stage 6 of Neighbourhood 1A. The proposed development includes works that encroach a total of 510m² into the riparian corridor Montgomery's Creek to construct Drainage Basin 8 and a road (part of Helen Street). A compensary vegetated off-set area of 513m² is proposed – (for further details refer to the submitted Montgomery's Creek Riparian Corridor Offset Plan (C12041.3-D260) prepared by Browns Consulting PTY Ltd and contained in Volume 2 – Subdivision Plans for Approval, and Appendix A of the Brown Consulting Stormwater Management and Drainage Analysis Report).

The subject Development Application was referred as Integrated Development to the NSW Office of Water (NOW) under Section 91 of the *Water Management Act 2000* for works within 40 metres of Montgomery's Creek. The *Water Management Act 2000* allows for works within riparian corridors provided they undergo the required assessment and obtain the necessary approvals / licenses.

The NOW issued their General Terms of Approval for the proposed development on 20 December 2013. Should development consent be granted these are to be included as an attachment to the consent and conditioned to be complied with.

The objective of clause 7.4 is to protect and maintain: water quality within watercourses and the stability of their bed and banks; aquatic and riparian habitats; and ecological processes within watercourses and riparian areas.

Before determining the development application the consent authority must consider:

- a) *Whether or not the development is likely to have any adverse impact on the following:*
 - i. *the water quality and flows within the watercourse,*
 - ii. *aquatic and riparian species, habitats and ecosystems of the watercourse,*
 - iii. *the stability of the bed and banks of the watercourse,*
 - iv. *the free passage of fish and other aquatic organisms within or along the watercourse,*
 - v. *any future rehabilitation of the watercourse and riparian areas, and*

It is considered that the issuing of General Terms of Approval by the NSW Office of Water for works within the Montgomery's Creek riparian corridor indicates that it is unlikely that the proposed development will have any adverse impacts on the items listed above. The applicant will have to obtain a Controlled Activity Approval under the *Water Management Act 2000* before any works will be able to commence. Such an approval will contain appropriate mitigation and management conditions.

- b) *Whether or not the development is likely to increase water extraction from the watercourse, and*

The proposed development does not include or require any extraction of water from Montgomery's Creek.

- c) *Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Appropriate measures will be conditioned should development consent be granted and will also be imposed on the required Controlled Activity Approval.

Further, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- a) *The development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- b) *If that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- c) *If that impact cannot be minimised—the development will be managed to mitigate that impact.*

Council is satisfied that the proposed development is designed and sited to avoid any significant adverse environmental impact. The development of Neighbourhood 1A (including Stage 6) has been informed by numerous environmental studies and technical reports. The impacts of the proposed works that encroach into the Montgomery's Creek riparian corridor can be adequately minimised and mitigated through the administration of the *Water Management Act 2000*. Council's Environmental Health Officer has also assessed the impacts on the riparian corridor and has raised no objections.

Clause 7.6 – Airspace operations

This clause states that if a proposed development will penetrate the Limitation or Operations Surface (LOS) for the Canberra Airport the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application. The majority of the land within the entire Googong urban release area has

an existing ground level that penetrates the LOS for the Canberra Airport, which is 740m above sea level (AHD). A strict interpretation of this clause means that nearly every single one of the projected 5,500 dwellings in the Googong Township, as well as any other building or structure—no matter how insignificant, i.e., a garden shed, cannot be approved without Council first consulting with the Commonwealth Department of Infrastructure and Regional Development, which, in turn, require Council to also consult with the Canberra Airport.

In the assessment of applications for dwellings at Googong Township that comply with LEP height limits Council, until recently and at the time the subject application was lodged, relied upon an exemption for residential development at Googong issued in 2008 by the Australian Government Civil Aviation Safety Authority (CASA). This states that in respect to the height of buildings or structures to be constructed at the site of the proposed Googong residential development south of Queanbeyan, structures which do not exceed 20m above ground level do not need to be referred for assessment as these will be shielded by a water tower at maximum height 822m AHD. However, during the course of a recent assessment for a school building in Googong, the Commonwealth Department of Infrastructure and Regional Development (DIRD) advised Council that this exemption should not be relied upon. Council is currently negotiating with the DIRD and NSW Planning and Infrastructure in an attempt to avoid a need for all of the thousands of residential buildings in Googong Township having to separately go through a consultation period, thereby resulting in significant delays and administrative burden for both Council, the Commonwealth and the Canberra Airport.

In relation to the subject application's proposed construction of 81 x dwellings that will penetrate the Canberra Airport Obstacle Limitations Surface Council has consulted with the Commonwealth Department of Infrastructure and Regional Development as required. They have advised in writing as follows:

The Queanbeyan City Council has commenced consultation with the Commonwealth Department of Infrastructure and Regional Development about a number of development applications in the Googong Township, as required under Part 7.6 of the Queanbeyan Local Environment Plan 2012.

The Department has undertaken to facilitate a streamlined assessment process under the Airports (Protection of Airspace) Regulations 1996 in relation to Obstacle Limitation Surface penetrations and will meet with Council officers, the Civil Aviation Safety Authority and Canberra Airport in the coming weeks to clarify arrangements.

The Commonwealth Department of Infrastructure and Regional Development do not object to the proposed development.

Clause 7.9 – Essential services

This clause states that development consent must not be granted unless the consent authority is satisfied that that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- a) *The supply of water,*
- b) *The supply of electricity,*
- c) *The disposal and management of sewage,*

- d) *Stormwater drainage or on-site conservation,*
- e) *Suitable vehicular access.*

For a discussion of the supply of water and electricity and management of sewage, refer to comments from Council's Senior Engineer—Development previously in this Report under clause 6.2 of the LEP.

Council's Senior Engineer—Development has also assessed storm water management and vehicular access and advises as follows:

Storm Water

The storm water system will be a major/minor system, in accordance with the submitted Stage 3-6 Stormwater Management and Drainage Analysis design report prepared for the development. The subdivision is fully contained within the Montgomery Creek catchment. Pipework will accept the minor flows and overland flow will take place in road and reserve areas. Storm water detention and peak flow attenuation will be achieved by the establishment of storm water detention basin adjacent Montgomery's Creek.

The basin will also form part of the water quality treatment train that also includes other Water Sensitive Urban Design (WSUD) devices such as GPTs, bio-retention basins, ponds and swales. In keeping with discussions with the applicant, WSUD has been applied at suitable locations, such as adjacent reserves and in the central swale of avenues. In most streets traditional kerb and gutter and pipe drainage will be utilised, with rain gardens utilised at a small number of appropriate locations in conjunction with street tree planting.

The treatment train has been modelled using Model for Urban Stormwater Improvement Conceptualisation (MUSIC) model, which is a program recognised as being appropriate for this purpose. The MUSIC model results indicate that the proposed treatment train will provide reductions in pollutant loads in keeping with the requirements of Council's adopted Googong Engineering Specifications.

Irrigation Strategy

The irrigation strategy report accompanying the previous DAs indicated that future irrigation needs of parks and reserves will generally be satisfied by the non-drinking water supply. However, this supply will need to be supplemented by raw water supplied from dams on the site and/or potable water supply.

The irrigation strategy was supported in principle but required further detail in regard to pipe sizes, pumps, alignment, and management and operation period as part of CC applications. The proposed irrigation for Stage 6 continues the same strategy and is again supported in principle.

Road Network

The development is situated on the south side of Googong Dam Road and it is proposed that the access will be via an extension of streets within Stages 1-5 to enable access via the Day 1 Entry (approved as part of Stage 1) and via the Street 5 intersection (Approved in Stage 3-5 and referred to as the Eastern Access). The Day 1 Entry, the Eastern Access and the Stages 1 -5 street

network have been designed to accommodate the additional traffic generated from the Stage 6 subdivision.

The Stage 3-5 DA approval requires the developer to undertake a SIDRA traffic analysis of the intersection of Old Cooma Road and Googong Road and incorporates a sensitivity analysis to determine at what traffic volume the Level of Service (LOS) for the right turn from Googong Road into Old Cooma Road reaches LOS's D and E. As part of Stage 6 may commence construction prior to areas within Stages 3-5, it is recommended that a condition be placed on this approval similarly requiring this analysis.

Street 4 (Beltana Avenue) & Street 5 (Caragh Street) will act as the collector roads for the proposed subdivision and will continue in this capacity until other road links are provided that lead toward the town centre. All other streets in the development will be local streets with low to moderate traffic volumes.

The Googong DCP adopts various street types for the development area, with pavement widths and verge widths dependent on traffic volumes, pedestrian use and services. The applicant has requested street widths as discussed in the following assessment:

- Streets 1a & 1b (Gorman Drive) east of the neighbourhood centre are proposed to have the street form of a Local Arterial Road with a central landscape median / drainage swale. This is consistent with the adopted street width in Googong DCP. Each side of the median will need to be signposted to enforce the one-way movement of traffic on each leg. Adjacent to the neighbourhood centre the street will alter form to a Collector Street, but will require on-road bicycle lanes to be provided.
- Aprasia Avenue (Street 25) is proposed as a Local Street 2 in compliance with the Googong DCP.
- Rogers Road, east of Rosa Street, will be constructed as the eastbound lane of a Type 4 Local Street (Boulevard), with the remaining westbound lane to be ultimately constructed as part of the adjacent development site (Bunyip land). The intent of this road form is to preserve the existing row of trees on the northern edge of the "Bunyip" site. Temporary bunding will be required along the southern edge of the road to contain storm water flows within the site, rather than discharging to the "Bunyip" land.
- Rogers Road, west of Rosa Street will be constructed in the future to provide access to the school site and the Bunyip subdivision. The timing of construction will be dependent on the future construction programmes for these developments. The section within the Stage 3 Googong Township area will be the responsibility of GTPL (the applicant) and may require a DA for road construction and services.
- All other streets with lot frontages each side will be Local Street 3 that Googong DCP specifies an 8.0m wide carriageway. The applicant has submitted preliminary plans with 7.5m wide carriageway in keeping with similar streets approved in Stage 1 and

this is considered acceptable, as it will maintain a streetscape uniformly throughout Neighbourhood 1A.

- Streets with lot frontage on one side only are termed Open Space Drives in Googong DCP. DR1 is requested to be reduced in carriageway width from 8.0m to 7.5m in keeping with those approved in Stage 1 while DR2 streets are proposed as 6.0m width in accordance with the DCP.
- A temporary bus route is proposed in the subdivision that links with that approved in Stage 1.

Pathways / Cycleways

Googong DCP provides an indicative bicycle path / major path network. A 2.0m wide key path should be provided in Aprasia Avenue. Streets within the Urban Village area are proposed to have 1.5m wide footpaths on both verges to promote the “walkable neighbourhood” concept and this is concurred with, noting that this is a departure from the DCP provision for a footpath on one verge only. A 1.5m wide path will be provided on one side of all other streets.

The pavement width of Gorman Drive will be constructed to allow for dedicated on-road cycle lanes to be line-marked.

Access

All residential lots will have non-trafficable slope face kerb along their frontage. At driveway locations vehicle kerb crossings (VKCs) will be provided as part of the subdivision works. The applicant will need to prepare a plan for submission with the CC to ensure that the VKCs are located in their correct location. This will avoid requests for their subsequent relocation to suit an alternative house design.

Residential lots facing Gorman Drive must have vehicular access provided via a side road or rear lane access, as this street is a Local Arterial Road. The applicant has requested vehicular access to be allowed to proposed Lots 89-97, citing topographical constraints. The request is not supported and is considered a poor precedent for future similar requests that would undermine the intent of the road function.

The private lanes depicted in the proposed Development Lots in Stage 3B are generally suitable, however, the laneway width / garage opening widths / vehicle swept paths do not meet the requirements of AS 2890.1 at some locations. These discrepancies will need to be adjusted in the Construction Certificate - Subdivision plans.

The dead-end section of Lot 784 is unworkable as it does not provide suitable vehicle exit from proposed Lots 23, 24 & 26. A reconfiguration of the subdivision of Lot 784 should provide for the entry to the laneway to be from Street 32 to eliminate the dead end.

Emergency Access

The bushfire assessment report accompanying the Stage 1 DA recommended the provision of an emergency access to Old Cooma Road and this has been

constructed as part of the Stage 1 works. The emergency access road will be utilised for this development as well.

Assessing Officer's Summary

Given the comments from Council's Senior Engineer—Development it can be concluded that Council is generally satisfied that essential services required for the proposed development are available or that adequate arrangements have been made to make them available when required. However, there are concerns about residential lots proposed with vehicular access to Gorman Drive (Local Arterial Road) and the design of some laneways. Variations or non-compliances with the Googong Development Control Plan identified by the Senior Engineer—Development will be discussed in detail later in this Report when DCP provisions are considered.

Section 79C – Evaluation (cont)

Clause (1)(a)(ii) – Any Draft Environmental Planning Instruments

The subject site is not affected by any draft environmental planning instruments.

Section 79C – Evaluation (cont)

Clause (1)(a)(iii) – Any Development Control Plan

The Googong Development Control Plan (GDGP) applies to the proposed development. The purpose of this DCP is to provide background objectives and controls, and design criteria to achieve desirable development outcomes in line with Council's vision for the Googong Township. The GDGP also adopts Part 1, Section 1.8 and Part 2, Sections 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8 and 2.9 of the Queanbeyan Development Control Plan 2012 (QDCP).

The following specific controls have been considered in detail in the assessment.

Note: Many of the sections adopted from the Queanbeyan Development Control Plan 2012 contain controls that are repeated in the Googong Development Control Plan. For simplicity, only the specifically relevant sections of the QDCP that are not repeated in the GDGP are discussed in detail below.

Queanbeyan Development Control Plan 2012

Assessment of Relevant Controls - QDCP

Part 1 – About this Development Control Plan

1.8 Public Notification Of A Development Application

The Development Application was publicly notified and exhibited as Integrated Development from 1 November 2013 to 2 December 2013. Adjoining property owners and occupiers were also notified by mail. Two written public submissions were received during this period.

Refer to the community consultation section of this Report under Clause 1 (d) of the Section 79C Evaluation for consideration of the relevant issues raised in the submissions.

Part 2 All Zones

2.2 Car Parking

This section of the QDCP requires compliance with the Australian Standard for car parking, which outlines parking and aisle widths, turning paths et cetera.

Council's Development Engineer advises that the proposed on-site car parking for the development generally complies with AS 2890.1. However, the laneway width / garage opening widths / vehicle swept paths do not meet the requirements of AS 2890.1 at some locations. It is further advised that these discrepancies can be adjusted in the Construction Certificate plans.

2.5 Flood Management

- Flood prone land is land identified as "Flood planning area" on the LEP Flood Planning Map

The subject site is not identified as a 'Flood planning area' on the Flood Planning Map.

2.6 Landscaping

- This clause outlines Council's requirements for landscape plans and also lists what development types require a Council Accredited Landscape Consultant to prepare landscape plans.

Satisfactory landscape plans for each of the Community Development lots containing dwellings has been submitted which show a variety of surface treatments and plants suitable to Queanbeyan's climate. These plans also show proposed front, side and rear fencing.

Satisfactory landscape plans prepared by a Council Category 2 Accredited Landscape Consultant showing the broad treatment of public streets and open space areas within the Stage 6 subdivision have been submitted.

2.7 Soil, Water and Vegetation Management Plan (SWVM Plans)

A SWVM is required to be submitted for the proposed development. Sediment and erosion controls must be installed prior to any work commencing and be maintained throughout the course of construction.

2.9 Safe Design

Dwelling designs should achieve effective natural surveillance, access definition, territorial reinforcement and defensible space through appropriate design of landscaping, entrances, lighting, building identification, security and fencing.

The proposed dwelling designs generally achieve the above requirements. Submitted plans show appropriate fencing and landscaping that will not obscure entries or prevent natural surveillance of the street. Some secondary dwellings above garages facing laneways will provide additional surveillance of these areas. The laneways have been designed to encourage a sense of ownership and use by pedestrians from the provision of visually attractive landscaping, surface treatments and off-setting.

Refer to comments from the NSW Police later in this Report. Standard conditions relating to building identification and lighting should be imposed if consent is granted to the 81 x dwelling houses.

Googong Development Control Plan

Assessment of Relevant Controls - GCDP

Part 1 - Preliminary

The purpose of the GDCP is to provide background, objectives, and controls and design criteria to achieve desirable development outcomes in line with Council's vision for the new town of Googong.

The controls contained in the DCP should be complied with. However, there may be outstanding circumstances (context or site specific) where a minor variation in development standards may be justified. Consideration of variations to developments controls may be given where it is demonstrated that the objectives of the DCP and the objectives of the particular development control can be achieved without detriment.

Several variations to various controls in the relevant Parts of the DCP are proposed. These relate to:

- 1.16 – General Design (Subdivision);
- 1.17 – Lot Size and Design;
- 1.23 – Roads, Traffic (vehicles, cyclists, pedestrians) and Access;
- 1.24 – Solar Access and Lot Orientation;
- 3.8 – Controls for Releasing Land for Development in Googong;
- 3.22 – Housing Diversity;
- 4.2 – Subdivision – General Controls;
- 4.4 – Lot Orientation and Lot Size and Layout;
- 5.2 – Street Network;
- 5.3 – Main Road;
- 5.5 – Local Streets;
- 6.25 – Secondary Dwellings;
- 7.2 – Streetscape;
- 7.4 – Building Form and Design;
- 7.10 – Private Open Space; and
- 7.14 – Solar Access.

The variations are discussed in detail in the assessment of the relevant controls.

Controls

This part of the GDCP outlines general objectives and controls for such matters as:

- Subdivision General Design;
- Lot Size and Design;
- Roads, Traffic (vehicles, cyclists, pedestrians) and Access;
- Solar Access and Lot Orientation;
- Flora and Fauna;
- Natural Hazards;
- Contamination;
- Stormwater Management and Drainage;

Assessment of Relevant Controls - GCDP

- Aboriginal and European Heritage; and
- Service Provision.

The proposed development is generally consistent with the objectives and controls in this Part, and all of the above matters are discussed in further detail later in this Report under separate Parts of the DCP. However, there are inconsistencies with several objectives and controls relating to subdivision design, roads and access, and solar access as outlined below.

1.16 General Design (Subdivision)

The objective of this control is that:

Subdivision design and density reflects the land capability, natural constraints and hazard of the land and is consistent with and enhances the character of the surrounding residential development.

Furthermore, consent must not be granted to a subdivision of land unless Council is satisfied that the density of the allotments to be created reflects the land capability, natural constraints and hazard of the land and is consistent with and enhances the character of the surrounding residential development.

Stage 6

The Stage 6 subdivision component of the proposed development generally satisfies the numerous specific controls. However, it does not satisfy control 1.16 (a)(v) which states that land should not be divided:

If the size, shape and location of, and the slope and nature of the land contained in each allotment resulting from the division is unsuitable for the purpose for which the allotment is to be used.

Stage 6D includes 9 x residential lots that have their vehicular access from Gorman Drive, which is a Local Arterial Road, rather than to a rear laneway as outlined in the Neighbourhood 1A Structure Plan. The location and configuration of these 9 x lots are considered to be unsuitable for their purpose as they compromise the efficient functioning of a Local Arterial Road. This aspect is considered to be a variation not only from this control, but from the requirements for Local Arterial Roads in Part 5 of this DCP which specifically prohibits access from residential lots. The applicant has submitted justifications for this variation, however Council does not support it. Refer to Part 5 of the DCP section of this Report for further discussion.

Stage 3B

The Stage 3B subdivision by the creation of 4 x Community Title Schemes of the proposed development generally satisfies the numerous specific controls. However, it does not satisfy control 1.16 (a)(v) either.

Stage 3B includes 14 x Community Development lots that are 170m^2, which is smallest lot size permitted under the LEP in the Googong urban release area, including 7 x lots that have an area that is 100m^2. The size of the lots 170m^2 is considered to be unsuitable for the purpose of the lots (residential development). This is not only because the lot size contravenes the minimum permitted under the LEP and the DCP, but is demonstrated in the submitted designs for dwellings on these lots exhibiting in many cases an overall poor level of amenity.

Assessment of Relevant Controls - GCDP

The applicant contends that there are no minimum lot size controls applicable to the creation of Community Development lots from the registration of a Community Title Scheme. It is further contended that good levels of amenity to each dwelling have been provided while achieving an overarching goal of providing a variety of affordable housing options. Council does not agree with either of these contentions. Refer to Part 7 of the DCP section of this Report for further discussion.

1.17 Lot Size and Design

The objectives of the controls are generally to ensure that subdivision layouts are compatible with the urban suitability and capability of the land, while enhancing the existing urban and scenic quality of the Queanbeyan Local Government Area and maximising the use of public transport.

Controls specifically relevant to the proposed development are as follows:

- a) Lot sizes should be compatible with the character of the surrounding area and are to comply with Clauses 2.6, 4.1, 4.1B, 4.2 and 4.2A in the QLEP 2012 and the minimum area requirement as specified on the Lot Size Map;
- b) Lot sizes and lot layouts in urban release areas should take account of the environmental constraints of the area and be designed to conserve agricultural productive land (where applicable) and the retention of any significant natural features of the site;
- c) Lot sizes and lot layouts in urban release areas which increase potential resident density shall be sited in close proximity to public transport nodes and to commercial/community facilities; and
- d) Lot size and lot layouts should reflect the servicing capacity of the area.

Stage 6

The Stage 6 subdivision component of the proposed development generally satisfies the above objectives and controls. Refer to Part 4 of the DCP section of this Report for further discussion.

Stage 3B

The Stage 3B subdivision by the creation of 4 x Community Title Schemes of the proposed development does not satisfy all of the above objectives and control 1.17(a). As previously discussed, numerous proposed lot sizes do not comply with Clause 4.1 of the LEP and the minimum area requirement as specified on the LEP's Lot Size Map. Refer to Part 4 of the DCP section of this Report for further discussion about lot size and design.

1.23 Roads, Traffic (vehicles, cyclists, pedestrians) and Access

The objectives of the controls are generally to provide safe and convenient access to all subdivisions and the individual lots within them, as well as providing safe facilities for pedestrians, cyclists and public transport users.

Controls specifically relevant to the proposed development are as follows:

- a) Subdivisions designed so that allotments along a main and arterial road have access from a local or secondary road; and
- b) Subdivisions designed to maximise the safety of pedestrians using the road reserve.

Assessment of Relevant Controls - GCDP

Stage 6

The Stage 6 subdivision component of the proposed development generally satisfies the above objectives and controls except for control 1.23(a) due to the proposed 9 x lots in Stage 6D with vehicular access from a Local Arterial Road. Council does not support this variation for reasons outlined in Part 5 of the DCP section of this Report.

Stage 3B

The Stage 3B subdivision by the creation of 4 x Community Title Schemes of the proposed development generally satisfies the controls of this clause, but does not satisfy all of the objectives. Specifically, the Community Title Scheme proposed on Lot 784 does not provide safe and convenient access to all of the individual lots. Refer to Part 5 of the DCP section of this Report for further discussion.

1.24 Solar Access and Lot Orientation

The objective of this control is to provide good solar opportunities internally and externally for future development and residents.

There is only one control which states:

- a) Subdivision blocks and allotments are orientated and have lengths and widths which provide opportunities for maximum solar efficiency when developed.

Stage 6

The Stage 6 subdivision component of the proposed development generally satisfies the above objective and control. Refer to Part 4 of the DCP section of this Report for further discussion about solar access and lot orientation.

Stage 3B

The Stage 3B subdivision by the creation of 4 x Community Title Schemes of the proposed development does not satisfy the objective and controls 1.24(a). Several of the proposed 76 x Community Development lots provide insufficient opportunities for maximum solar efficiency. This is evident from the submitted dwelling designs and relates largely to the use of lot sizes less than is permitted under the LEP and DCP. Refer to Part 4 of the DCP section of this Report for further discussion about solar access and lot orientation.

Summary – Part 1 – Preliminary

In summary, the Stage 6 subdivision component of the proposed development generally satisfies the preliminary development controls and objectives in this Part, with the exception of the proposed 9 x lots with vehicular access to a Local Arterial Road. The Stage 3B subdivision component does not satisfy several relevant preliminary development controls and objectives in this Part. These aspects are more specifically covered in Part's 4, 5, 6 and 7 of the DCP.

Part 3 – The Googong Master Plan (Appendix 2 – Master Plan Map) and Neighbourhood Structure Plans (Appendix 3 – Neighbourhood 1A Map)

Master Plan - Purpose and Variations

The purpose of the Master Plan is to guide the orderly and sequential development of Googong Township through the next 25 years. To achieve this, the Master Plan outlines general objectives and controls for Neighbourhood Structure Plans so that the broad structure of each Neighbourhood in the Township is established before the subdivision of land commences. Development is to be generally in accordance with the Master Plan and other controls in the GCDP.

Note: The planning for the provision of infrastructure and community facilities is contained in the Googong Local Voluntary Planning Agreement (VPA), which was negotiated concurrently with the development of the other strategic planning policies for the Googong Township

A variation to the Master Plan must demonstrate that it is consistent with the vision and the applicable objectives of this DCP and can only be amended as part of a neighbourhood structure plan.

Master Plan Objectives

The objectives of the Master Plan are as follows:

1. Establish high quality liveable neighbourhoods within a sustainable township;
2. Create a transition from lower density residential fringes to urban mixed use centres;
3. Promote interconnectivity within and between neighbourhoods through safe and legible pedestrian paths, cycle ways and streets;
4. Focus each neighbourhood around a 'neighbourhood centre' which is to be a hub of community, commercial and retail activity;
5. Create a connected open space network catering for all ages with a range of civic, active, passive and civic spaces; and
6. Provide opportunities for future residents and visitors to meet their social, cultural and economic needs.

Stage 6

The Stage 6 subdivision component of the proposed development is considered to be generally consistent with the broad objectives of the Master Plan.

Stage 3B

The Stage 3B subdivision by the creation of 4 x Community Title Schemes of the proposed development is considered to be inconsistent with the several objectives of the Master Plan. Specifically, the proposed creation of lots <330m² outside the "Additional Development Area" and 200m radius of the Neighbourhood Centre is considered to undermine the main structural method of achieving the desired transition from lower density residential fringes to urban mixed use centres in an orderly fashion.

The use of Community Title Schemes for no other discernable reason other than as an attempt to circumvent minimum lot size controls and thereby removing the main control over residential densities, creates a precedent that, if approved, would undermine the Master Plan objective of focussing each neighbourhood around a 'neighbourhood centre', which is in part achieved by creating a defined transition from lower residential densities on the urban fringe to higher densities

Assessment of Relevant Controls - GCDP

closer to neighbourhood and urban centres.

Master Plan Controls – Neighbourhood Structure Plans

The Master Plan outlines general objectives and controls for Neighbourhood Structure Plans. These Plans provide for the orderly development of Googong Township by establishing the broad structure of each Neighbourhood within the context of the Master Plan. Development in each neighbourhood is to be generally consistent with the Neighbourhood Structure Plan. The Approved Structure Plan for Neighbourhood 1A is contained in Appendix 3 of the DCP.

The proposed development is generally consistent with most of the objectives and controls of Neighbourhood Structure Plans and with the Neighbourhood 1A Structure Plan as shown in Appendix 3. However, there are some important inconsistencies relating to:

- The releasing of land;
- Housing diversity;
- Provision of on-road bicycle lanes within Gorman Drive (AV1); and
- Vehicular access to Gorman Drive (AV1) from residential lots.

3.8 Controls for Releasing Land for Development in Googong

The release of land shall support achieving the following forecasts:

- a) To provide a mix of dwelling types including affordable housing, commercial centres, community facilities, open space and infrastructure including roads and a sewerage treatment plant;
- b) That by 2035 a total of 5,550 dwellings will be provided; and
- c) That by 2035 the population of Googong will be approximately 16,000 people.

The proposed development undermines the total dwelling and population forecasts and targets for Googong Township by seeking to use Community Title Schemes to circumvent minimum lot size controls to achieve higher residential densities, both within and outside of the “Additional Development Area”. This area is specifically identified for higher densities in the LEP. This approach, if approved, would set a precedent that would undermine the key strategic plans prepared for the Township, including the:

- Queanbeyan Residential and Economic Strategy 2006 – 2013 (the Strategy);
- Queanbeyan Local Environmental Plan 2012;
- Googong Local Voluntary Planning Agreement (VPA); and
- Googong Master Plan.

If the developer of the Googong Township wishes to pursue higher residential densities than was originally envisioned, the correct course is to review the Strategy and VPA, amend the LEP through a Planning Proposal and amend the Master Plan and Neighbourhood Structure Plan as required. By seeking to achieve higher densities through an individual development application to subdivide land and construct dwellings the applicant is taking an ad-hoc, ‘back-to-front’ approach to the development of the Township. This approach undermines the many years of careful planning and negotiation to develop a clear vision for Googong.

3.22 Housing Diversity

The objective of this control is that Googong Township should provide a mix of housing types that will cater for different types of households (i.e. young, old, families, single households) with different incomes.

The diversity of housing types envisioned in the GDCP includes single dwellings, multi-dwellings, attached and detached homes (such as terraces; townhouses; villas and duplexes), residential flat buildings, studios over garages, and seniors housing.

Note: The studios over garages mentioned above are identified in Part 6 of the GDCP as specifically being secondary dwellings as defined in the LEP, not separately titled semi-detached “Type 11 dwellings” as is proposed on 7 x Community Development lots.

This section also clearly identifies that higher density housing types include apartments and housing on lots between 170m² and 330m² located within close proximity (200 metres) of a neighbourhood centre, thus reinforcing the clear intention of the strategic planning of the Googong Township to not only provide a mix of housing types and densities, but also to limit smaller, more affordable lots to be no less than 170m² and within close proximity to the facilities, services and public transport offered by neighbourhood centres.

Controls specifically relevant to the proposed development are as follows:

- a) Each Neighbourhood is to have a range of housing types;
- b) 10% of total housing in Googong is to be provided as Affordable Housing (in the form of “Affordable Home Packages” as defined and indexed at a price determined within the current Voluntary Planning Agreement (VPA); and
- c) Higher density housing is to be located in neighbourhood centres and sites adjacent to open space and along public transport routes.

The Stage 3B part of proposed development to construct 81 x dwellings on 76 x Community Development lots created by the registration of 4 x Community Title Schemes does not satisfy control 3.22(c) in that it includes higher density housing (lots <330m²) outside the “Additional Development Area” identified in the LEP for medium density housing in proximity to Neighbourhood Centres. It also includes housing in higher densities than envisioned within the “Additional Development Area” by proposing lots <170m².

There are 4 x “Additional Development Areas” identified on the LEP’s Googong Map (Refer to Clause 4.1D of the LEP). These are located in areas that are zoned R1 – General Residential that have a minimum lot size requirement of 330m². The “Additional Development Areas” have been identified for a smaller minimum lot size than would otherwise be permitted to allow for a transition zone of medium density residential development, (lots between 170m² and 330m²), in close proximity to Neighbourhood Centres.

A breakdown of the non-compliant lots is provided below.

Proposed Community Title Subdivision of Lot 782

The majority of Lot 782 is located outside of the “Additional Development Area”. Of the 14 x proposed lots only 2 x lots are located entirely within the “Additional Development Area”, while 3 x lots are partially within the “Additional Development Area”. Furthermore, 1 x lot that is counted to be within the “Additional Development Area” is less than the

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permitted size of 170m² and not only are all of the proposed lots outside of the “Additional Development Area” less than the permitted size of 330m², 2 x lots do not even meet the 170m² minimum.

Proposed Community Title Subdivision of Super Lot 5 of Lot 783

All of super lot 5 of Lot 783 is located within the “Additional Development Area”, however, 1 x lot is less than the permitted size of 170m².

Proposed Community Title Subdivision of Lot 784

All of Lot 784 is located within the “Additional Development Area”, however, 4 x lots are less than the permitted size of 170m².

Proposed Community Title Subdivision of Super Lot 1 of Lot 785

The majority of Lot 785 is located within the “Additional Development Area”. Of the 14 x proposed lots 2 x lots are located entirely outside the “Additional Development Area”, while another 2 x lots are partially within the “Additional Development Area”. The 2 x lots outside of the “Additional Development Area” are not only less than the permitted size of 330m², but they do not even meet the 170m² minimum. Of the remaining 12 x lots with a permitted minimum lot size of 170m², 4 x lots do not comply.

The applicant states that the smaller lot housing is predominantly located within the “Additional Development Area”, with some being on the edge. Further, it is stated that:

The residential density of these lots complements the active location along this [Gorman Drive] main thoroughfare, and the proximity to the future neighbourhood centre. The Community Title subdivision will contribute to more urban streetscape and promote a transition to lower density standard lots outside the urban core.

The applicant states throughout their supporting documents that flexibility should be shown in the assessment of the lot sizes and dwelling designs within the proposed 4 x Community Title Schemes so that a larger percentage of affordable housing can be provided that will encourage greater social inclusion and diversity. These are all laudable goals and Council agrees that some flexibility should be shown when applying the mapped “Additional Development Area”, but only in so far as that lots that are partially within the higher density areas be permitted to be included.

The “Additional Development Area” boundary is clearly defined and mapped in the LEP. It has been put in place precisely to achieve the applicant’s stated aim of promoting a transition to lower density lots outside the urban core. A permitted lot size range of 170m² to 330m² allows for sufficient flexibility in lot design and the delivery of housing diversity. The onus is on the applicant to design subdivisions that take the “Additional Development Area” boundary into account.

In summary, Council does not support the creation of residential lots located wholly outside the “Additional Development Area” that are less than 330m². Furthermore, Council does not support residential lots located partially or within the “Additional Development Area” that are less than 170m² for the following reasons:

1. The “Additional Development Areas” are a key mechanism of the LEP to incorporate one of the strategic aims for the Googong Township, namely, to supplement the higher density development in Town Centres by creating several urban core areas where areas of medium

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density residential development can be concentrated within close proximity to the facilities, services and public transport offered by Neighbourhood and Local Centres. The proposal undermines this key strategic aims and the mechanisms put in place to achieve it;

2. This section of the Master Plan clearly identifies that higher density housing types including apartments and housing on lots between 170m² and 330m² need to be located within close proximity (200 metres) of a neighbourhood centre, thus reinforcing the clear intention of the strategic planning of the Googong Township to not only provide a mix of housing types and densities, but also to limit smaller, more affordable lots to be no less than 170m² and within close proximity to the facilities, services and public transport offered by neighbourhood centres; and
3. The “Additional Development Area” boundary is clearly defined and mapped in the LEP. A permitted lot size range of 170m² to 330m² allows for sufficient flexibility in lot design and the delivery of housing diversity. There is no compelling reason why the applicant should not be required to design subdivisions that take the “Additional Development Area” boundary into account.

Appendix 3 – Neighbourhood 1A Structure Plan Maps

Bus, Cycle and Pedestrian Movement Map

This Map clearly shows the provision of a dedicated on-road bicycle lane along the entire length of Gorman Drive (AV1), which is a Local Arterial Road. Further, the Master Plan shows AV1 having a bicycle lane throughout the entire Googong Township. The applicant originally proposed removing this lane in the section of Gorman Drive that runs through the Neighbourhood Centre where it narrows somewhat to a Street Type 1. Council advised the applicant that this infrastructure is seen as non-negotiable in terms of the provision of adequate infrastructure for cyclists. The applicant has agreed in writing to reinstate the bicycle lane. Amended plans will need to be submitted prior to the issue of any Construction Certificate – Subdivision should development consent be granted.

Laneway Locations Map

While the proposed development’s laneway locations are generally in accordance with the Map, the proposed development does not include laneways for three blocks that adjoin Gorman Drive (AV1). This results in 9 x residential lots that have their direct vehicular access to Gorman Drive, which is a Local Arterial Road. Council does not support this variation to the Neighbourhood Structure Plan. This will be discussed in detail in the Part 5 section of the DCP assessment.

Summary - Part 3 – The Googong Master Plan and Neighbourhood 1A Structure Plan

The proposed development does not specifically satisfy two Master Plan controls relating to population and housing targets, and housing diversity within each Neighbourhood Structure Plan. These aspects ultimately control the density of residential development for the whole of Googong Township. It is acknowledged that population targets and the like will likely be subject to some changes over time and require regular review. However, the identified inconsistencies (if approved) will result in development that is not only inconsistent with the vision for the development of Googong Township, but will set a precedent that may undermine the key strategic aims for the Township. The correct course to vary the Master Plan is to seek an amendment to the Neighbourhood 1A Structure Plan, not through an individual development application to subdivide land and construct dwellings.

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The proposed development is also not in accordance with two important aspects of the Neighbourhood 1A Structure Plan relating to the provision of on-road bicycle lanes and vehicular access to Gorman Drive (AV1). The applicant has agreed to amend the proposal to reinstate the bicycle lane, but remains committed to a design that results in 9 x residential lots having their vehicular access onto an arterial road.

While it is acknowledged that the Structure Plan Maps are necessarily broad in their details and subject to some necessary changes over time, the identified inconsistencies (if approved) will result in development that is not only inconsistent with the vision for the development of Googong Township, but will have broader negative impacts on the efficient functioning of roads and general amenity.

Part 4 – Subdivision Controls

4.1 and 4.2 General Objectives and General Controls

The objectives are as follows:

1. Create a legible subdivision pattern that maximises the ‘sense of neighbourhood’ and promotes walking and cycling over private car uses;
2. To set up a neighbourhood pattern that utilises the residential development areas efficiently, optimises the natural attributes of the site and clearly defines and reinforces the public domain;
3. Optimise views and the amenity of residential allotments in regards to views, solar access and proximity to community facilities, open space and public transport;
4. Ensure each neighbourhood within the township has a range of densities and housing choices to cater for the various needs of the community; and
5. Provide good solar access opportunities for future dwellings and residents and ensure that the lot layout responds to and optimizes solar access.

The controls are as follows:

- a) Subdivision design shall be generally in accordance with the Neighbourhood Structure Plan.
- b) Subdivision lot sizes shall comply with the minimum lot sizes as specified in the LEP (refer to LEP Lot Size Map).
- c) Neighbourhoods are to be centred on a focal point of a town or neighbourhood centre with retail, commercial or community facilities that are generally within a 5 – 10 minute walk from all dwellings.
- d) Neighbourhood pattern is to create a legible and permeable street hierarchy that responds to the natural site topography, the location of existing significant trees and solar design principles.
- e) Pedestrian and bicycle connectivity within each residential neighbourhood is to be provided between the residential areas and public open space areas, public transport nodes, education and community / recreation facilities.
- f) Street blocks are to be generally a maximum of 250m long by 70m wide. Block lengths and widths in excess of 250m may be considered by council where connectivity objectives are achieved.

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- g) Each new allotment has sufficient building area on it, being land with a slope of less than 20%.

Stage 6

The Stage 6 subdivision component of the proposed development is considered to be generally consistent with the above objectives and complies with the applicable controls. However, it does not satisfy control 4.2(a) as it does not provide laneways as shown in the Neighbourhood 1A Structure Plan to avoid creating lots with vehicular access onto Gorman Drive, which is a Local Arterial Road. Refer to Part 5 assessment for further discussion.

Stage 3B

The Stage 3B subdivision by the creation of 4 x Community Title Schemes of the proposed development is considered to be generally consistent with the objectives and controls, but it does not satisfy control 4.2(b) in that numerous proposed lots sizes do not comply with the minimum lot sizes as specified in the LEP. The applicant's justification for this is that the LEP minimum lot size controls do not apply to the creation of individual lots in Community Title Schemes and contends that regardless, the proposed development remains in keeping with the strategic aims of the development of Googong Township, while providing more affordable housing and housing diversity.

4.4 Lot Orientation and Lot Size and Layout

Lot Orientation

Controls for lot orientation are listed below.

- a) A minimum of 70% of lots in each neighbourhood are to achieve solar efficiency.
- b) Consideration should be given to different lot dimensions depending on the lot orientation.
- c) Lot orientation, size and dimensions should enable dwellings to be generally sited either on an N-S or E-W orientation.
- d) Allowances are to be made for different lot depths and widths, depending on orientation, which may also result in increased variety to the streetscape frontage pattern.
- e) Where E-W oriented lots are proposed lots should be wider to support solar access.
- f) Design for deeper N-S lots on the southern side of roads, particularly if two storey dwellings are envisaged, to allow for solar access to private open space at the rear.
- g) N-S oriented lots on the northern side of an E-W road can be less deep than N-S lots on the southern side of the same road. A wider southern lot allows for a central courtyard, which may gain greater solar penetration.

Both the Stage 6 and Stage 3B subdivision component of the proposed development generally comply with the above controls. There are no objectives listed.

Lot Size and Layout

The objectives of the lot size and layout controls are:

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1. Encourage a variety of lot sizes across the site to promote housing choice and create varied streetscapes.
2. Smaller lot sizes are to be located within easy walking distance of a neighbourhood centre or the town centre.
3. Promote generally rectangular street blocks and lots to maximise efficiency.

Controls for lot size and layout are:

- a) Minimum lot size is to be in accordance with the LEP Lot Size Map and the lot dimensions are to be in accordance with the Table below.

Lot Size	Minimum Frontage Width
$170 < 250\text{m}^2$	6 metres
$250 < 300\text{m}^2$	6 metres
$300 < 450\text{m}^2$	10 metres
$450 < 600\text{m}^2$	12 metres
$600 < 900\text{m}^2$	12 metres
$900 < 1500\text{m}^2$	15 metres
$> 1500\text{m}^2$	18 metres

- b) Residential lot size must be capable of accommodating a dwelling, private open space and at least one under cover car parking space.
- c) Lot size and layout are to take into account the slope of the land, any environmental constraints and any significant natural features to create a legible and permeable neighbourhood pattern.
- d) Lots should be generally rectangular in shape and orientated to allow future dwellings to gain access off streets and where possible, public open spaces.

Stage 6

The Stage 6 subdivision component of the proposed development is considered to be generally consistent with the above objectives and complies with the applicable controls. There is one very minor variation proposed as discussed below.

Variation – Lot Width

There are 2 x lots within Stage 6D (lots 125 and 126) that are required to have a lot width of at least

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12m, however, they are shown as having a lot width of 11.71m. The applicant has requested this variation be approved as the lots are located on an arc and the area, width and depth of the lots at the building line is substantial enough to meet the DCP objectives.

Council agrees with the applicant's justification and supports the variation. Both lots 125 and 126 become increasingly wider from the frontage and will be able to accommodate a future dwelling-house that is compliant with the applicable DCP controls.

Stage 3B

The Stage 3B subdivision by the creation of 4 x Community Title Schemes of the proposed development is considered to be generally consistent with most of the lot size and layout objectives and controls, but, it does not satisfy controls 4.4(a) and (b). Not only do numerous proposed lots not comply with the LEP Lot Size Map, 2 x lots within Lot 785 proposed to have an area of 115m² have a lot frontage of only 4m. Furthermore, 5 of the 7 x lots that are proposed to have separately titled above-garage dwellings are provided with very undersized private open space areas.

The proposed lot sizes within each proposed Community Title Scheme are discussed in detail below.

Proposed Community Title Subdivision of Lot 782

Lot 782 is an existing un-registered super lot approved under development consent 233-2012/A. It is proposed to create a Community Title Scheme on this super lot containing 13 x Community Development lots (ranging in size from 92m² to 316m²), and 1 x Community Property lot (468m² laneway). Each Community Development lot will contain a dwelling, including 3 x above-garage semi-detached dwellings. No secondary dwellings are proposed within Lot 782 (Refer to Figure 4 earlier in this Report).

In total 9 of the 13 x Development lots are less than the 170m² or 330m² permitted minimum lot size under the LEP and DCP (Lots 3, 4, 6 -11 and 14).

The majority of Lot 782 is located outside of the "Additional Development Area". Only proposed Lots 13 and 14 are within the "Additional Development Area", while Lot 1 (community property) and Lots 2 and 12 are partially within the "Additional Development Area". Therefore, it was never envisioned that this area would include residential development on lot sizes less than 330m², let alone lots as small as 92m².

While it can be argued that Lot 782 is 'close enough' to the 200m radius and should be considered as a transition zone between high to low densities, it is considered that the 170m² – 330m² permitted lot size range within the "Additional Development Area" already provides scope for a transition of residential densities.

Council is willing to apply some flexibility to the application of the "Additional Development Area", but only to lots that are partially within this area. Lot 782 extends approximately 45m outside of this area. This is considered to be excessive and not in keeping with the residential densities envisioned for Googong Township. Regardless of the applicability of the LEP Lot Size Map to the creation of Community title Schemes, it is Council's strong view that super lot 782 should only be subdivided to create residential lots that are in keeping with the residential densities envisioned for Googong Township. The onus is on the developer to design subdivisions in that take into account the mapped boundaries of the "Additional Development Area".

Proposed Community Title Subdivision of Lot 783

It is proposed to subdivide Lot 783 into 5 x super lots and create a Community Title Scheme on super lot 5. The Community Scheme is proposed to contain 11 x Development Lots (ranging in size

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from 89m² to 278m²), and 1 x Community Lot (460m² laneway). Each Community Development lot will contain a dwelling, including 1 x above-garage semi-detached dwellings and 1 x secondary dwelling (Refer to Figure 5 earlier in this Report).

All of super lot 5 of Lot 783 is located within the “Additional Development Area”. Of the 11 x Development lots, only Lot 12 is less than the 170m² permitted minimum lot size under the LEP and DCP.

Proposed Community Title Subdivision of Lot 784

Lot 784 is an existing un-registered super lot approved under development consent 233-2012/A. It is proposed to create a Community Title Scheme on this super lot containing 39 x Development Lots (ranging in size from 89m² to 288m²), and 1 x Community Lot (1209m² laneway). Each Community Development lot will contain a dwelling, including 2 x above-garage semi-detached dwellings and 3 x secondary dwellings (Refer to Figures 6 - 8 earlier in this Report).

All of Lot 784 is located within the “Additional Development Area”. In total 10 of the 39 x Development lots are less than the 170m² permitted minimum lot size under the LEP and DCP (Lots 2, 7, 10 and 26).

Proposed Community Title Subdivision of Lot 785

It is proposed to subdivide Lot 785 into 3 x super lots and create a Community Title Scheme on super lot 1. The Community Scheme is proposed to contain 13 x Development Lots (ranging in size from 104m² to 222m²), and 1 x Community Lot (433m² laneway). Each Community Development lot will contain a dwelling, including 1 x above-garage semi-detached dwelling and 1 x secondary dwelling. Further, each of the 14 x dwellings is proposed to be an exhibition home, making up an exhibition village (Refer to Figure 9 earlier in this Report).

The majority of super lot 1 of Lot 785 is located within the “Additional Development Area”. Proposed Lots 10 and 11 are wholly outside the “Additional Development Area”, while Lot 1 (community property) and Lots 9 and 12 are only partially within the “Additional Development Area”.

In total 6 of the 13 x Development lots are less than the 170m² or 330m² permitted minimum lot size under the LEP and DCP (Lots 7 - 11 and 13).

This Report has already covered the reasons why Council believes that the proposed residential lots should comply with the LEP Lot Size Map. Lot widths <6m can only be considered as acceptable in the context of development standards and controls that permit lot sizes <170m². The inadequate of private open space for some of the proposed dwellings indicates poor amenity for future residents.

Summary - Part 4 – Subdivision Controls

The proposed development does not specifically satisfy several subdivision controls relating to: the design being generally in accordance with the Neighbourhood 1A Structure Plan; minimum lot size; minimum lot frontage width; and the provision of private open space.

Of the 76 x proposed Development lots, 26 (or 34%) do not meet the required minimum lot size area. This calculation is based on Council’s position that individual lots that are wholly outside of the “Additional Development Area” have a minimum lot size of 330m², while those lots that are partially or wholly within the “Additional Development Area” have a minimum lot size of 170m². The non-compliant lots are spread relatively evenly within each Community Title Scheme (apart from on Lot 783 where only 1 x lot is non-compliant).

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As stated throughout this Report, regardless of whether the LEP minimum lot size controls technically apply to the creation of individual lots in Community Title Schemes, Council does not support the creation of lots that are less than what is clearly envisioned, intended and required by the various planning instruments and policies for Googong. Furthermore, most, if not all, of the other variations to controls in this Part can be said to be a result of the lack of compliance with minimum lot sizes.

On page 82 of the applicant's Statement of Environmental Effects (SEE) it states:

The lot orientation has taken into consideration optimum solar access to each of the proposed dwellings, as well as the provision of sufficient land area for open space, car parking (garages/carports), clothes drying areas and space for the storage of garbage bins.

During the assessment of the proposed development against the relevant development controls in Part 6 and 7 it was found that numerous proposed dwellings do not in fact achieve optimum solar access, sufficient area for open space and the storage of garbage bins. This will be discussed in detail shortly.

Part 5 – Design Guidelines and Controls for Public Domain

5.2 Street Network

The objectives of the street network controls are:

1. Establish a street network that complements the characteristics of each neighbourhood area and promotes a liveable and permeable local environment.
2. Provide safe and convenient access to all subdivisions and all allotments within a subdivision.
3. Facilitate safe movement of road users through the provision of usable and accessible facilities for pedestrian and cyclists.
4. Promote use of public transport through the provision of appropriate facilities for users of public transport.
5. Make provision for legible, safe and efficient pedestrian, bicycle and vehicular movement throughout the township and connections to the established network.
6. Create a street hierarchy that reflects the function and character of each street and forms part of a legible network.
7. Make provision for a public transport route through Googong.
8. Provide as appropriate Water Sensitive Urban Design (WSUD) elements into the street network, as illustrated in images above.

General controls for the street network are:

- a) Streets are to be designed in accordance with the Master Plan, Council's adopted Engineering Design Specification – Googong, Control Diagrams and numeric controls in Table 3.
- b) A development application must demonstrate that the proposed streets are appropriate for their role in the street network.
- c) All new streets are to comply with the design and engineering requirements applicable to roads and streets, crossings, footpaths, cycle ways, bus shelters and

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the like in QCC Engineering Design Specification – Googong.

- d) Streets are to include a stormwater drainage facilities as required. WSUD controls should be provided where possible in central medians.
- e) Subdivisions are to be designed to provide adequate safety for pedestrians using the street verge.
- f) Applications for subdivision shall be accompanied by a traffic engineering assessment that includes traffic volumes and movements, cross-sections through typical street types demonstrating that road reserve widths can adequately accommodate electricity, gas, telecommunications, water and waste water infrastructure, street trees, footpaths, shared paths, on-street parking, road pavement widths and where appropriate on-street cycling.

This Part of the DCP adopts various street types for the Googong Township, with pavement widths and verge widths dependent on traffic volumes, pedestrian use and services. Each street type also has its own set of specific objectives and controls.

The proposed new streets and laneways that form part of the subject application have been assessed by Council's Development Engineer as being generally satisfactory with the general controls above. Several minor variations to specific street type controls are recommended for approval and some inconsistencies can be satisfactorily dealt with at the Construction Certificate—Subdivision stage. There are three proposed variations to specific street type controls that Council's Development Engineer does not support, and there is one laneway that has manoeuvrability issues. Otherwise the proposal generally conforms to the objectives and controls of each street type.

The assessment of the proposed new streets and laneways that form part of the subject application is outlined below, including a discussion of proposed variations and any inconsistencies with the general objectives listed above for the street network. For an overall view of the proposed street types in the Stage 6 subdivision refer to submitted Street Hierarchy Plan (C12041.3-D008+) prepared by Browns Consulting PTY Ltd and contained in Volume 2 – Subdivision Plans for Approval.

5.3 Main Road

There is one main road within the subject development site, both within Stage 3B and Stage 6 of Neighbourhood 1A. It is known as Gorman Drive and it is specifically classified as a Local Arterial Road. It is identified on the Googong Master Plan and Neighbourhood 1A Structure Plan Maps as being Street Type AV1 (which is a two-way road divided by a median and with on-road parking and cycle lane and footpaths on either side). Gorman Drive is also shown as changing its typology to a Collector Street where it passes through the Neighbourhood Centre. This sees the median strip being removed from Gorman Drive, but the retention of two-way travel lanes and on-road parking. The Master Plan and Structure Plan Maps also require this section of Gorman Drive to have the on-road cycle lane maintained.

The principle functions of main / arterial roads is the efficient distribution of traffic throughout the Googong Township, linking to commercial centres and the road network external to Googong. For this reason the DCP clearly states that access to an arterial road from residential lots is prohibited (refer to control 5.3(a))

Gorman Drive Variations

Two variations to the controls for main roads relating to the Gorman Drive Local Arterial Road

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were originally proposed by the applicant as discussed below.

Variation 1 – On-Road Cycle Lane

The applicant originally proposed the removal of the on-road cycle lane where Gorman Drive passes through the Neighbourhood Centre, however, they have agreed to reinstate this and will be required by a condition to submit revised plans to show this should development consent be granted.

Variation 2 – Lots with Access from Gorman Drive

Stage 6D includes 9 x residential lots that have their vehicular access from Gorman Drive rather than to a rear laneway as outlined in the Neighbourhood 1A Structure Plan. This will compromise the efficient functioning of this Local Arterial Road and is a variation to development control 5.3(a) as well as being a variation to the Neighbourhood 1A Structure Plan.

The applicant has submitted justifications from their Traffic Consultant for this variation and has declined to amend the proposal. The justifications are summarised below.

- *This is necessary due to the irregular and steeper topography, which makes the provision of small lots and rear access lanes impractical. Traffic volumes at this end of Gorman Drive are lower than the balance of NH1A and the Traffic Assessment has concluded that safe vehicle, bicycle and pedestrian movements will be maintained.*
- *Cars can be reversed out into parking lanes, with a distance of 7m between property boundary and cycle lane, affording good visibility of approaching traffic and cyclists for the driver while not protruding into the cycle lane. To achieve this it may be necessary to ban parking within 3m of driveway in the relevant direction.*
- *The justification for lots being front loaded is not only due to the topography of the land. TTM has undertaken traffic modelling of Gorman Drive that indicates that traffic volume drops from 8,800 vpd West of the neighbourhood centre to 7,200 vpd East of the centre in the subject area (20% decrease). Note that volumes drop significantly further South in NH1B, NH5 & NH 4, to between 3,000 – 4,000 vpd.*
- *Whilst we are supportive of arterial roads with around 9,000 vpd being rear loaded, the projected movements are approximately 20% less than that (circa 7,000) and drop off dramatically east of these lots.*
- *Furthermore, the median strip on Gorman Drive ensures that cars are not reversing across double lines into traffic moving in the opposite direction.*

Council has given the applicant's justifications due consideration. It may be that as this Local Arterial Road progresses through the Googong Township's future Neighbourhoods that the modelled drop-off in traffic volumes may warrant a re-consideration of the strict controls on vehicle access. However, Stage 6 is the final stage of Neighbourhood 1A and the correct process for a re-consideration of this issue is not through the prism of a handful of lots within an individual development application. This is correctly considered as a potential amendment of the Neighbourhood 1A Structure Plan and/or during the preparation of future Neighbourhood Structure Plans.

Council's Development Engineer advises on this issue as follows:

Residential lots facing Gorman Drive must have vehicular access provided via a side road or rear lane access, as this street is a Local Arterial Road. The applicant has requested vehicular

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access to be allowed to proposed Lots 89-97, citing topographical constraints. The request is not supported and is considered a poor precedent for future similar requests that would undermine the intent of the road function. These proposed lots should be consolidated into a development lot in this consent, thereby deferring development / subdivision to a future DA.

Council recommends that the proposed variation to development control 5.3(a) be refused for the following reasons:

1. It is contrary to two general objectives for the Googong Street Network in that it;
 - a) Interferes with efficient vehicular movement throughout the township and connections to the established network, and
 - b) Does not reflect the function and character of the Local Arterial Road;
2. It is contrary to the objectives of the specific development control which states that main roads are intended as a link between commercial centres within Googong Township as well as to the external road network, and that their main function is to provide convenient and safe distribution of traffic;
3. It is contrary to the Neighbourhood 1A Structure Plan, which clearly shows that lots with frontages to Gorman Drive are to be accessed from side streets or rear laneways;
4. The topography issues cited by the applicant as the main reasons for the variations can be overcome by other measures; and
5. The variation, if permitted, would set a precedent for future subdivisions of land in the vicinity of main roads in the Googong Township and similar requests for variations that would undermine the intent of the road function. Any re-consideration of the development controls relating to main roads is correctly done as an amendment to the Neighbourhood 1A Structure Plan and during the preparation of future Structure Plans.

Should development consent be granted for the subdivision of Stage 6, it is recommended that the two separate blocks in Stage 6D that contain the residential lots which have direct vehicular access from Gorman Drive be excluded. This will result in a total of 17 x lots being excluded but will allow the applicant to consider alternative lot designs that do not compromise the functioning of Gorman Drive.

5.4 Collector Road

Beltana Avenue and Caragh Street within already approved Stage 3 of Neighbourhood 1A will act as the collector roads for the proposed Stage 6 subdivision. They will continue in this capacity until other road links are provided that lead toward the town centre.

5.5 Local Streets

The construction of several local streets are proposed within the Stage 6 subdivision.

Local Street Type 2

Aprasia Avenue is proposed as a Local Street 2 in compliance with the Googong DCP. It runs adjacent to the northern boundaries of the Neighbourhood Centre super lot and the lot identified for a future public school.

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Local Street Type 3 - Variations

The majority of streets within the Stage 6 subdivision and Googong Township more broadly are Local Street Type 3. Within Stage 6 all streets with lot frontages each side other than Rogers Road will be Local Street Type 3.

Variation 1 – Carriageway Width

The DCP specifies an 8.0m wide carriageway. The applicant has submitted preliminary plans with 7.5m wide carriageway in keeping with similar streets approved in Stage 1. Council's Development Engineer considers this variation to be acceptable, as it will maintain a streetscape uniformly throughout Neighbourhood 1A and is in keeping with the objectives of the overall street network and those specific to the street type.

Note: Given that this particular variation to Street Type 3 has been accepted by Council throughout Neighbourhood 1A, the control should be re-considered during the preparation of the next Neighbourhood Structure Plan as a possible amendment to the DCP.

Variation 2 – Footpaths

The DCP states that footpaths should only be provided on one side of the street for Local Street Type 3. The applicant originally proposed that footpaths be provided on both sides of all of these streets within the Stage 6 subdivision in order to provide better amenity and promote the "walkable neighbourhood" concept.

There are several super lots proposed within the Stage 6 subdivision that will be accessed from Local Street Type 3 which are also within the "Additional Development Area" identified in the LEP. The "Additional Development Area" is in close proximity to the Neighbourhood Centre and is permitted to have a minimum lot size of 170m² to promote the development of medium to high density residential housing in appropriate locations. Other areas of Stage 6 with this street type are located outside the "Additional Development Area".

Local Street Type 3 is the most common street type in the Googong Township and Council must be mindful of future maintenance costs when considering the provision of infrastructure such as footpaths within urban release areas. Furthermore, this street type will generally be located in areas of low residential densities. However, Council supports the concept of "walkable neighbourhoods" and considers it justified to have footpaths on each side of the Local Street Types 3 within the areas identified in the LEP as "Additional Development Areas", but not in the parts of Stage 6 outside these areas. This approach is also consistent with the relevant general objective of the street network controls of providing for legible, safe and efficient pedestrian movement throughout the Township.

5.6 Local Street - Boulevard

Local Street Type 4

Rogers Road, east of Rosa Street, will be constructed as the eastbound lane of a Type 4 Local Street (Boulevard), with the remaining westbound lane to be ultimately constructed as part of the adjacent development site (Bunyip land). The intent of this road form is to preserve the existing row of trees on the northern edge of the "Bunyip" site. Council's Development Engineer has assessed the use of this road type for Rogers Road as being acceptable. Temporary bunding will be required along the southern edge of the road to contain storm water flows within the site, rather than discharging to the "Bunyip" land.

5.7 Local Street – Adjacent to Major Open Space Areas

Local Street – Open Space Drive 1 - Variation

Streets with lot frontage on one side only are termed Open Space Drives in the DCP. Banksia Street is proposed as an Open Space Drive 1. It bisects between the Neighbourhood Centre super lot and the lot identified for a future public school. The applicant has requested this street to be reduced in carriageway width from 8.0m to 7.5m in keeping with those approved in Stage 1. Council's Development Engineer considers this variation to be acceptable, as it will maintain a streetscape uniformly throughout Neighbourhood 1A and is in keeping with the objectives of the overall street network and those specific to the street type.

Note: Given that this particular variation to Open Space Drive 1 has been accepted by Council throughout Neighbourhood 1A, the control should be re-considered during the preparation of the next Neighbourhood Structure Plan as a possible amendment to the DCP.

Local Street – Open Space Drive 2

The design of one Open Space Drive 2 street is proposed in accordance with the DCP.

5.8 Local Street – Laneway

The proposed subdivision of super lots in Stage 3B to create 4 x Community Title Schemes includes the provision of private laneways in locations generally in accordance with those depicted in the Neighbourhood 1A Structure Plan. Council's Development Engineer advises that these laneways are generally suitable, however, the laneway width / garage opening widths / vehicle swept paths do not meet the requirements of the applicable Australian Standard at some locations. These discrepancies can be adjusted in the plans submitted for the Construction Certificate-Subdivision should development consent be granted, however, there are problems with the design of the laneway in Lot 784 that are unacceptable.

Lot 784 Laneway

Lot 784 is an existing un-registered super lot approved under development consent 233-2012. It is proposed to create a Community Title Scheme on this super lot containing 39 x Community Development Lots and 1 x Community Lot (laneway). Each Community Development also contains at least one dwelling.

Council's Development Engineer advises that the dead-end section of Lot 784 is unworkable as it does not provide suitable vehicle exit from 3 x proposed Community Development lots. This issue could be addressed with a re-design of the Community Title Scheme. Council's Development Engineer recommends that any reconfiguration should provide for the entry to the laneway to be from Street 32 to eliminate the dead-end.

It should be noted that the dead-end in Lot 784 is created by the insertion of a Community Development lot less than 100m^2 in size that contains an above-garage dwelling. The removal of this lot (that does not comply with the minimum lot size requirements in the LEP and DCP) would remove the manoeuvrability problems identified by Council's Development Engineer.

It should also be noted that the applicant was not given an opportunity to address this issue by submitting a re-design of the Community Title Scheme on Lot 784 as it was identified by Council late in the assessment of the application and, as Council is recommending refusal of all of the proposed 4 x Community Title Schemes and 81 x dwellings it was considered counter-productive to

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require the applicant to submit a re-design prior to determination. If the Panel does not agree with Council's recommendation and decides to approve the creation of the 4 x Community Title Schemes and 81 x dwellings, it is recommended that the Panel then consider excluding the Community Development lot within the Lot 784 Community Title Scheme that creates the dead-end from the approval (Lot 26). The dwelling on adjoining Development lot 25 would also need to be excluded as its garage is located on Lot 26 and therefore, would require a re-design. Such redesign should be completed and assessed prior to any approval being given for the development within the Lot 784 Community Title Scheme.

5.9 Public Open Spaces and Landscaping

The objectives of the public open spaces and landscaping controls are:

1. Provide a mix of passive, active, formal and informal public open spaces and play opportunities.
2. Provide open space areas which are distinctive in character and provide safe and secure access for all users.
3. Establish attractive walking and cycling links throughout.
4. Create attractive landscapes that are durable and generally low maintenance.
5. Integrate the principles of Water Sensitive Urban Design (WSUD) into the street and landscape design.
6. Landscaping of public open space shall be generally in accordance with the Landscape and Open Space Strategy and Schedule 1 in the local Voluntary Planning Agreement.

Controls relating to Local Parks and Linear Parks / Drainage Reserves are relevant to the proposed development as listed below.

Local Parks shall:

- a) Have a minimum area of 1000m² and be linked to a larger open space network.
- b) Be generally within 200m of most residents (unless that resident is within 400m of a neighbourhood park).
- c) Allow for passive and / or active recreation.
- d) Provide seating and pathways for circulation.
- e) Incorporate small children's play facilities as set out in Schedule 1 of the voluntary planning agreement.
- f) Provide entry and signage elements.
- g) Integrate open space with stormwater management and environmental strategies
- h) Optimise ecological functionality through planting of endemic species.

Proposed Local Park 3 within Stage 6 of Neighbourhood 1A generally satisfies the relevant objectives and controls as shown in the submitted Landscape Plans and Subdivision Plan (Lot 65 in Stage 6A). The Park will be 3,597m² in size.

Linear Parks and Drainage Reserves shall:

- a) Maximise ecological function through the planting of endemic species.
- b) Link neighbourhood and local parks and other key community focal points into the continuous open space network.

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- c) Facilitate overland flow requirements.
- d) Integrate non-vehicular circulation within footpaths and cycle-ways to increase safety and connectivity.
- e) Include water sensitive urban design elements such as weir structures to control water flow around drainage lines and create pooling where required, urban creek lines along streets and existing creeks.
- f) Include bushland regeneration where appropriate.

Proposed Drainage Basin 8 within Stage 6 of Neighbourhood 1A generally satisfies the relevant objectives and controls as shown in the submitted Landscape Plans, Hydraulic Plans and Subdivision Plan (Lot 98 in Stage 6D). The Drainage Basin will be 4,092m² in size and its functionality has been assessed by Council's Development Engineer as being satisfactory, including the provision of water sensitive urban design (WSUD) elements.

5.10 Landscaping in the Public Domain

Relevant controls are:

- a) Main access roads and boulevards are to incorporate WSUD bio-retention elements where appropriate.
- b) Any subdivision application shall be accompanied by a planting schedule detailing proposed planting for local streets. Such proposed planting shall include a mix of exotic and local native species. Other plants may be used where it can be demonstrated that they meet the objectives and controls in this DCP.

The submitted Landscape Plans include the required detailed planting schedules and appropriate bio-retention elements. Council's Manager of Parks and Recreation has assessed the proposed public domain landscaping as being satisfactory.

5.13 Public Art

In accordance with this clause areas suitable for public art have been identified in the landscape plans for public open space areas. Future development of the Neighbourhood Centre will require a consideration of the provision of public art in this space.

Summary - Part 5 – Design Guidelines and Controls for Public Domain

The proposed development does not specifically satisfy several street network controls relating to: on-road cycle lanes; access to lots from a Local Arterial Road; some street widths; and provision of footpaths. Furthermore, one laneway has an unworkable configuration due to a dead-end impeding vehicle access to individual lots.

The applicant has agreed in writing to re-instate the on-road cycle lane for the entire section of Gorman Drive and will need to submit amended plans to show as such. Variations relating to street widths are supported. The variation to allow footpaths on both sides of Local Street Type 3 is only supported by Council within the higher density "Additional Development Areas".

The proposed variation to allow 2 x residential lots within Stage 6D to have a lot width of less than 12m is supported. The proposed variation to allow residential lots to have vehicular access from a Local Arterial Road (Gorman Drive) is not supported. Should development consent be granted for

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the subdivision of Stage 6, it is recommended that the two separate blocks in Stage 6D that contain the residential lots which have direct vehicular access from Gorman Drive be excluded.

The laneway within the proposed Community Title Scheme on Lot 784 is unworkable and will need to be redesigned and assessed prior to any approval being given for the development within the Lot 784 Community Title Scheme.

Part 6 – General Residential

Of the 81 x dwellings proposed to be constructed within 4 x Community title Schemes in Stage 3B of Neighbourhood 1A, 76 of them are assessed under the provisions of Part 7 of the DCP. The remaining 5 x dwellings are defined as secondary dwellings and are assessed under Part 6.

Part 6 contains specific controls for secondary dwellings as defined by the LEP, being a self-contained dwelling that:

- a) *Is established in conjunction with another dwelling (the "principal dwelling").*
- b) *Is on the same lot of land as the principal dwelling.*
- c) *Is located within, or is attached to, or is separate from, the principal dwelling.*

The proposed development includes the construction of 5 x secondary dwellings within three separate Community Title Schemes (identified on Subdivision Plans for Lots 783, 784 and 785). Each is located on a Community Development lot that also contains a principal dwelling. The secondary dwellings are situated above a detached double garage, overlooking a rear laneway.

Note: the DCP also refers to secondary dwellings as “studio apartments”. The proposed development also includes 7 x above garage “studio apartments” that are not secondary dwellings, but are correctly defined as semi-detached dwellings. The submitted plans identify these dwellings as “Type 11”. These are separately assessed under Part 7 of the DCP.

6.25 Secondary Dwellings

This clause characterises secondary dwellings in Googong Township as being a self-contained dwelling located above a garage, taking the form of a single multifunctional room which serves as a living room, dining room and bedroom with facilities for a kitchen, bathroom and clothes washing. Further, secondary dwellings are described as an important form of affordable rental housing in the Googong Township.

The objectives of the secondary dwelling controls are:

1. Secondary dwellings and studio apartments should not adversely impact upon the existing or future amenity (overshadowing, privacy or visual) of any adjoining land upon which residential development is permissible and shall be developed in a complementary architectural style, materials and colours to the principal dwelling.
2. Secondary dwellings need to be compatible with the character of the surrounding buildings.
3. Secondary dwellings must provide for passive surveillance to rear lanes.
4. Share the open space and parking facilities available on the site.

The five proposed secondary dwellings generally satisfy the above objectives, except for the following exceptions:

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- Objective 1 - The dwelling proposed on Community Development lot 4 in Lot 783. Submitted shadow diagrams show that by including a two storey element to the detached garage to allow for a secondary dwelling, over 50% of the rear yard and private open space of the principal dwelling is overshadowed between 9am and 2pm on the winter solstice. This is considered to be an adverse impact on the amenity of future residents of the principal dwelling; and
- Objective 4 - Secondary dwellings are not actually required to be provided with their own car parking facilities (see clause 7.11 of Part 7). However, the principle of open space being shared has not been embraced in the proposed design. By locating the buildings containing the secondary dwellings against the rear setback there is no opportunity for the provision of a rear balcony as required (see development controls below). This is considered to result in poor amenity for the future residents of the secondary dwellings.

The secondary dwelling controls are:

- a) Secondary dwellings cannot be strata titled.
- b) For secondary dwellings located on blocks larger than 450m² the controls specified in Schedule 1 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 will apply.
- c) For secondary dwellings located on blocks smaller than 450m² the requirements of Table 2 will apply.

None of the secondary dwellings are proposed to be separately titled. All of the Community Development lots that contain secondary dwellings are less than 450m², therefore, the requirements of Table 2 will apply as outlined below.

Controls	Comments
Floor Area - Maximum of 60m ² or 30% of the total floor area of the principal dwelling.	<ul style="list-style-type: none"> • Complies. All proposed secondary dwellings have a floor area of either 33.4m² or 36m².
Setbacks – Where located over a garage the required setback is the same as what applies to the garage.	<ul style="list-style-type: none"> • Complies. Rear setback for garages facing a laneway is 0m. Corner lot secondary frontage setback for garages of 5.5m has not been applied as the subject garages are not accessed from the secondary frontage, rather they are accessed from the rear laneway. This control relates to situations where the garage is accessed off the secondary frontage.

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<p>Additional Requirements for Secondary Dwellings Located Above Garages (Studio Apartments)</p> <p>a) Studio apartments should not be located over garages directly opposite in a private driveway unless adequate separation for privacy is achieved.</p> <p>b) Side facing windows shall not be provided.</p> <p>c) A balcony is to be provided off the living area to address the rear lane.</p> <p>d) Studio apartments shall be constructed above the garage and have a floor area no greater than the garage.</p>	<ul style="list-style-type: none"> • Complies. In circumstances where secondary dwellings and the 7 x above garage semi-detached dwellings are located opposite a laneway there is adequate off-set and separation for privacy. • Variation. Some side windows are provided to all 5 x secondary dwellings. However, these all face into a laneway or public road. • Variation. None of the secondary dwellings have a balcony. The applicant states that stairs with a roofed landing are provided on the northern or western façade to facilitate access to the secondary dwellings. • Complies. All secondary dwellings have a floor area the same or less than the garage below.
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Summary - Part 6 – General Residential (Secondary Dwellings)

The 5 x proposed secondary dwellings have been generally designed in accordance with the applicable development controls. However, there are two variations to specific development controls and one secondary dwelling has an adverse impact on the amenity of the principal dwelling from overshadowing.

Variation 1 – Windows - The variation to allow for some side windows is supported as they do not introduce any adverse impacts on the amenity of adjoining properties as they face laneways or public roads. The objectives of the secondary development controls are not compromised by the variation.

Variation 2 – Balconies - The variation to the requirement for secondary dwellings to have balconies is not supported. The applicant refers to the provision of a covered landing in response to this control. This landing is only 1.87m² and hardly constitutes an adequate or private area of open space. The landings face the back yard and private open space of the principal dwellings,

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compromising their privacy of both residences if the landings were to be used other than their primary intention, i.e., access.

The buildings containing the proposed secondary dwellings are permitted to have a 0m setback to the rear laneway, and all have been designed with a 0m setback. This makes providing a rear balcony that addresses the rear lane unachievable. In order to provide even a small balcony the building would need to be moved forward towards the front of the lot, thus allowing for a rear balcony to be provided off the secondary dwelling's living area and fulfilling the objective of sharing open space available on the lot. While this solution would worsen the overshadowing of the principal dwelling on Community Development lot 4 in Lot 783 it does not obviously appear that it would introduce any negative amenity or compliance issues to other lots containing secondary dwellings.

Given the above, if the Panel does not agree with Council's recommendation and decides to approve the creation of the 4 x Community Title Schemes and 81x dwellings, it is recommended that the Panel then consider excluding the individual buildings on the 5 x Community Development Lots that contain secondary dwellings from the approval. This will allow for a re-design (to provide better amenity to dwellings on these lots) to be submitted as part of a future application.

Part 7 – Small Lots, Dual Occupancies, Multi Units and Residential Flats

Small Lot Housing Controls

Part 7 contains development objectives and controls for small lot housing (envisioned as being on lots between 170m² and 330m² and located within the 'Additional Development Area' identified in the LEP). The subject application is the first submitted to Council that has proposed small lot housing. Not all of the general provisions in Part 7 are applicable to small lot housing or to development involving laneways. *Table 1: Small Lot Housing created under clause 4.1D QLEP 2012* contains development controls specific to small lot housing, and is the primary reference for assessing compliance.

Applying the Small Lot Housing Development Controls

All of proposed 76 x dwellings that are variously defined as dwelling-houses, semi-detached dwellings and attached dwellings are located on Community Development lots that are less than 330m²— ranging from 89m² to 316m² (including 10 x lots that are between 100m² and 170m², and 4 x lots that are less than 100m²). There are 11 x dwellings that are single storey, the rest are two storey. All of them have detached car parking facing a laneway.

There are no applicable development controls for housing on lots <170m² or for separately titled above-garage 'studio' type semi-detached dwellings (identified as Type 11 dwellings on the submitted plans). This is because residential lots that are <170m², and the form of the Type 11 dwellings have not yet been envisioned for the Googong Township. In the submitted SEE and supporting documents the applicant has applied the 170m² – 330m² controls to the dwellings on lots within that range, and also attempted to apply them to the dwellings located on lots <170m². Council has also taken this approach in its assessment.

Defining the Type 11 Dwellings

The 7 x above-garage Type 11 dwellings are on their own Community Development lot within a building that is proposed to then be stratum subdivided under Sections 196B –

196L of the *Conveyancing Act* 1919 after completion of construction. The stratum subdivision will allocate a portion of the ground floor (a double garage) to an adjoining Community Development lot also containing a dwelling, while the remainder of the ground floor (single garage and stairwell) will be allocated to the dwelling above (refer to Figures 12 and 13 below for an example).

Figure 12 - Typical Site Plan Containing Type 11 Dwelling and Adjoining Dwelling

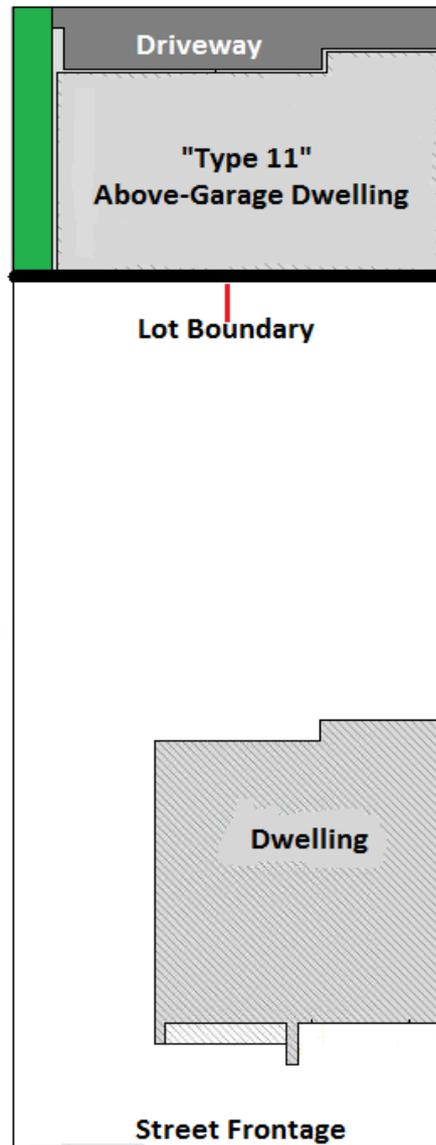
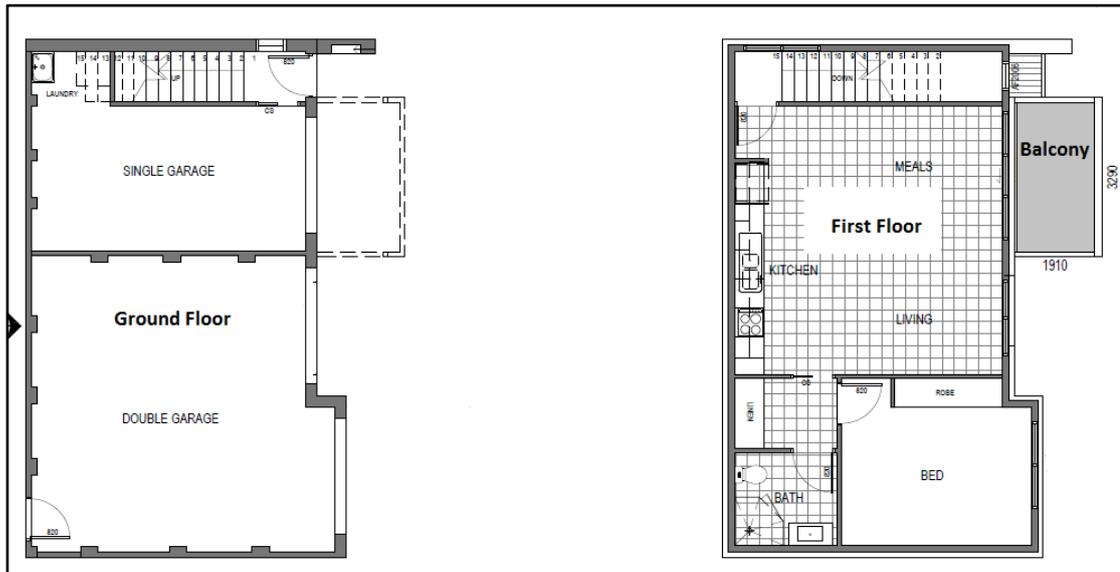


Figure 13 - Typical Floor Plan of Type 11 Dwelling



Under the LEP the 7 x above garage dwellings are defined as *semi-detached dwellings*.

semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling.

The applicant and Council agree that this definition is applicable as each Type 11 dwelling is proposed to be Stratum subdivided and, as such, will be a dwelling that is on its own lot of land (being the stratum lot), but attached to one other dwelling (being the double garage component of the ground floor).

Assessing Compliance with the Development Controls in Part 7

An assessment against the relevant provisions of Part 7 has been carried out for all of the dwellings on a lot by lot basis. However, for simplicity—given the sheer number of individual dwellings, a discussion of compliance with Part 7 is necessarily done in a summary format.

The dwellings comply with many of the relevant provisions of Part 7 of the DCP and it is clear in the design of each dwelling and the overall layout of the Community Title Schemes that a genuine attempt has been made to provide a good level of amenity to individual residences and a high quality streetscape. However, several non-compliances point to a lack of amenity for specific dwellings and are related to the non-adherence with the required minimum lot sizes prescribed in the LEP and this DCP.

Areas of Compliance with Part 7 - Summary

The proposed dwellings as a whole generally satisfy the following categories of development controls relating to small lot housing:

- Streetscape (including the private laneways) – excluding required building setbacks;
- Height and Floorspace;
- Privacy and View Sharing;
- Safety and Security;
- Car Parking and Garages;

- Waste Management;
- Energy and Natural Ventilation;
- Water Conservation; and
- Stormwater Management.

Specifically, in relation to the:

- Streetscape;
 - Facades facing the street (both public roads and private laneways) present a mix of compatible external colours and materials and are well articulated,
 - A variety of roof forms are used and the insertion of some single storey dwellings aids in breaking up the bulk of the buildings, and
 - Fencing incorporates open elements and a mixture of materials.
- Privacy and View Sharing;
 - Windows and private open space areas are off-set or screened where appropriate.
- Car Parking and Garages;
 - The majority of dwellings are provided with two car parking spaces within a mixture of detached garages and car ports, and
 - Some non-compliances with the Australian Standard in the private laneways relating to their width, garage opening widths and vehicle swept paths can be satisfactorily addressed at Construction Certificate – Subdivision should development consent be granted.
- Waste Management;
 - Every dwelling needs to be provided with sufficient room on site to store 3 x Council issue mobile garbage bins (“wheelie bins”), the minimum space required being 2.3m long by 0.75m wide. The vast majority of the land area the Type 11 dwellings are located on is taken up with the building containing the dwelling and garage. For 5 of the 7 dwellings there is no space for the storage of bins that does not conflict with vehicle access or landscaping. Compliance could be achieved with the removal of some of the landscaping contained in the 1m wide strip of land along the building’s side boundary.

Notwithstanding the above compliances, and as previously discussed, Part 4 – Subdivision Controls of the DCP requires lot sizes to be in accordance with the LEP Lot Size Map. This is regardless of the applicability of the LEP Lot Size Map to the creation of Community Title Schemes pursuant to sub-clause 4.1(4) of the LEP. Moreover, there are several important non-compliances that point to a lack of amenity, and over-development of several lots that can only be defined as being very cramped. The non-compliances are discussed below.

Areas of Non-Compliance with Part 7 - Summary

The proposed dwellings exhibit non-compliances, or variations, with the following categories of development controls relating to small lot housing:

- Private Open Space;
- Streetscape – building setbacks;
- Building Form and Design – articulation zones; and
- Solar Access.

Some of the non-compliances are repeated for the majority of dwellings, while others are essentially unique to a particular dwelling type. Where the applicant has attempted to justify the non-compliances as variations worthy of approval, their reasoning is provided.

Non-Compliance's (Variations) to Part 7 Development Controls

➤ *Variation 1 – Type 11 (Above-Garage) Dwellings - Private Open Space*

A total of 7 x above-garage 'studio' Type 11 semi-detached dwellings, each on their own Community Development lot, are proposed. Recall that these dwellings are located above a garage area, which is split into a double and single garage space. The building is proposed to be Stratum subdivided post-construction to allow for the allocation of the double garage space to a dwelling on an adjoining Development lot. The Type 11 above-garage dwellings all have one bedroom, a single garage space and a small balcony. The distribution of this dwelling type within each proposed Community Title Scheme is shown in the Table below.

Type 11 Above-Garage Dwellings		
Community Title Scheme Lot	Development Lot Number	Lot Size
782	3	156m ²
	6	92m ²
	14	92m ²
783	12	89m ²
784	2	89m ²
	26	132m ²
785	13	104m ²

▶ *Control 7.10(a)*

Lots with a width of between 6m and 10m are required to have a private open space area (POS) of 16m² that is directly accessible from a living area and with a minimum width of 3m. None of the proposed Type 11 dwellings comply with this requirement. Rather, all 7 are provided with a balcony of approximately 6.3m², with a width dimension of 1.9m. Two of the dwellings are able to be supplemented with some ground level open space due to a non-rectangular lot configuration, albeit, not directly accessible from a living area.

The vast majority of the land area these dwellings are located on is taken up with the building containing the dwelling and garage and a narrow strip of concreted driveway. For 5 of the 7 dwellings there is only a small (1m wide) strip of landscaped area along the building's side boundary that is not a useable space.

The applicant states in their assessment of compliance with the DCP contained within the submitted Statement of Environmental Effects (SEE) that all of the dwellings comply with the POS requirements. This is clearly incorrect for all of the Type 11 dwellings. Although there is space behind the building to accommodate some ground level POS for all of these dwellings, the applicant correctly stated in subsequent correspondence that this creates too many restrictive covenants and maintenance issues. Providing some ground level POS for these dwellings would actually result in residents of the adjoining Development lot having to cross over into another Development Lot in order to access their Stratum lot (double garage).

The 6.3m² balcony provided off the living area of each Type 11 dwelling is considered to provide a poor level of amenity. This is evidenced by the fact that the control for balconies for multi-dwelling housing (even for small, one bedroom dwellings) is a minimum area of 12m² and minimum dimension of 2m. These balconies could possibly be enlarged to provide a larger area more in keeping with the multi-dwelling housing controls. This would certainly provide a more acceptable level of amenity.

Clearly, the requirement for a 16m² area of POS located off a living area is not realistic for this type of dwelling on lots that are much smaller than is permitted and catered for in the development controls. However, this only serves to reiterate that the correct process for investigating whether such dwelling types and lot sizes should be permitted is through an amendment to the LEP and DCP—not through the prism of an individual development application. The merits or otherwise of the design and amenity provided to the Type 11 dwellings is difficult to assess when they are so clearly outside the current planning framework and located on lots that are well under what is permitted by the LEP, the DCP and clearly articulated in the vision for the development of the Googong Township.

➤ *Variation 2 – Zero Lot Line Building Setbacks*

▶ *Control 7.2(c)*

On lots between 170m² – 330m² dwellings are permitted to have a zero lot line of 50% of the depth of the lot for single storey buildings and 30% for two storey buildings. Also, lots with a width measured at the building line between 6m – 8m are permitted to be built to both side boundaries, i.e., attached dwellings.

The proposed 76 x dwellings include numerous attached and semi-detached housing types. The majority of these dwellings are two storey and have a zero lot line in excess of 30%. The applicant has acknowledged these non-compliances but has not attempted to specifically justify them.

The general objectives of the zero lot line controls is to ensure that the bulk, scale and height of residential development provides good neighbour amenity and an appropriate residential character is maintained. Furthermore, the controls aid in ensuring that adequate sunlight and ventilation for living areas and private open spaces of new and neighbouring dwellings is provided for.

Lots that are around 170m² – 200m² will likely be considerably longer than they are wide. A typical small lot housing lot in this size range might have dimensions of 6m x 30m.

Also, typically, dwellings on these lots will mostly be two storeys. Applying the zero lot line control to this scenario means that a two storey dwelling can have a zero lot line for a 9m length. Some of the proposed dwellings on similar lots have a length of 13m – 14m.

When the 76 x dwellings (excluding the 5 x secondary dwellings) within the 4 x Community Title Schemes are viewed as a whole it is clear that the zero lot line variations are not causing amenity issues for future residents in terms of solar access and ventilation (some solar access issues, which will be discussed shortly, are due to the placement of two storey buildings containing above-garage dwellings at the rear of a lot). Furthermore, the bulk and scale of the buildings is not considered to be excessive when the use of varying colours, material, roof forms and building heights is taken into account. Therefore, the proposed variations to zero lot line requirements are not objected to in this instance.

The subject application is the first submitted to Council that has proposed small lot housing. The controls in Part 7 of the DCP have yet to be applied and tested. A lot that is 170m² will necessarily have a different character of building than a lot that is 330m². It is recommended that the zero lot line controls should be reviewed and that a consideration be given to applying a different control to lots between 170m² – 250m².

➤ *Variation 3– Corner Lot and Front Building Setbacks*

▶ *Control 7.2(c)*

The secondary building setback on corner lots (excluding garages and car ports) is 1.5m (lots 170m² – 250m²), or 2.0m (lots 250m² – 330m²). Further, the front building setback (excluding garages and car ports) is required to be 3.0m for all lots between 170m² – 330m². Of the proposed 76 x dwellings (excluding the 5 x secondary dwellings) there are 2 x dwellings that are non-compliant with the corner lot control, and 1 x dwelling that is non-compliant with the front setback control. Refer to the table below.

The setback non-compliances are all within the Community Title Scheme proposed on Lot 785. A total of 6 of the 14 x lots in this Scheme do not comply with the required minimum lot size. This is also the Scheme that is proposed to be used as an exhibition village, ‘showcasing’ attached dwellings on lots as small as 115m², a secondary dwelling and a Type 11 above-garage dwelling. The applicant has acknowledged these non-compliances but has not specifically justified them.

Side and Front Building Setbacks					
Community Title Scheme Lot	Development Lot Number	Lot Size	Dwelling Type	Secondary Setback (Required)	Secondary Setback (Proposed)
785	2	194m ²	Semi-Detached	1.5m	0.57 – 1.2m
	10	160m ²	Semi-Detached	1.5m	0.82 – 1.2m
Community Title Scheme Lot	Development Lot Number	Lot Size	Dwelling Type	Front Setback (Required)	Front Setback (Proposed)
785	11	134m ²	Semi-Detached	3.0m	4.24

The proposed dwellings that have setback non-compliances within Lot 785 are on Development lots that are constrained by having a tapering boundary. There are no objections to the proposed variation to the secondary setback on Development lot 2 as this lot complies with the minimum lot size and the encroachment does not result in any adverse amenity issues. However, Development lots 10 and 11 do not comply with the minimum lot size. Furthermore, the dwelling on Lot 11 causes unacceptable overshadowing of the adjoining lot to the rear, even though it is only a single storey building. These factors indicate an over-development of these two lots, and the variation is not supported.

➤ *Variation 4 – Articulation Zone*

▶ *Control 7.4(f)*

The DCP allows for dwellings on lots between 170m² – 1500m² to have a building articulation zone of 40% of the width of the dwelling to encroach into the minimum front setback by up to 1.5m. The articulation zone consists of architectural elements which address the street frontage and assist in creating a character in an area. Elements permitted in the articulation zone include the following:

- Entry feature or portico, awnings or other features over windows and sun shading, balcony (roofed or unroofed) or window box treatment to any first floor element, recessing or projecting architectural elements, open verandahs, bay windows or similar features.

Each of the proposed 69 x dwellings with street frontages (excluding the secondary dwellings and Type 11 dwellings) are provided with articulation zone elements, including pergolas, small decks, porticos and awnings. There are numerous instances where these elements encroach into the front setback by more than 1.5m and/or are greater than 40% the width of the dwelling. The applicant states that the dwellings have a high degree of articulation and create visual interest in the streetscape.

It terms of impacts on the streetscape, it appears somewhat unreasonable to apply the same 40% articulation zone width control to dwellings on lots 170m² to dwellings on lots 1,500m². This is evidenced by Council consistently approving articulation zones of up to 45 – 47% on lots that are between 330m² – 400m².

Dwellings on small lots will have a completely different character to those on much larger lots. They will necessarily be quite narrow in width and are likely to also be attached to another dwelling (at least on one side). However, some of the dwelling's proposed articulation zone width is up to 84%.

When viewed as a whole, the proposed non-compliances with the articulation zone width on dwellings within the Community Title Schemes on Lot's 782, 783 and 784 are not objected to. This is because the majority of dwellings comply and the variations are mostly at 45%. The few instances of a 75% width do not have an adverse impact on the streetscape, and actually aid in providing a varied and visually interesting streetscape.

The articulation zone width non-compliances on Lot 785 are more pronounced, with all proposed dwellings being non-compliant at between 51% and 85%. When this is viewed in the context of the fact that a total of 6 of the 14 x lots in this Scheme do not comply with the required minimum lot size and that it includes attached dwellings on lots as small

as 115m², it is difficult to support the variation, as the resulting streetscape is quite removed from what is currently envisioned for the identified small lot housing areas in Googong.

In terms of the permitted 1.5m articulation zone encroachment into the front setback, Council's consistent approach has been to apply this to all lot sizes. There is no compelling reason why this should not be complied with for small lot housing. Dwellings on small lots only need to be setback from the front boundary by 3m. Having building elements on these lots encroach into this narrow front setback by more than 1.5m is considered to result in an inappropriate impact on the bulk and scale of building form facing the streetscape.

➤ *Variation 5 – Solar Access*

▶ *Control 7.14(b)*

The principle area of private open space (POS) is required to receive at least 3 hours of sunlight to at least 50% of its area between 9am and 3pm on the winter solstice. Furthermore, adjoining properties should have the same maintained to their POS and living room windows. The applicant has acknowledged only partial compliance with this control but has not attempted to specifically justify them, only to state that dwellings have been designed to have a northerly aspect where practical.

Of the 76 x proposed dwellings (excluding the 5 x secondary dwellings) the submitted shadow diagrams show that there are 3 x dwellings that are non-compliant with the solar access control. The non-compliances are within the Community Title Scheme proposed on Lots 783 and 785 as described below.

On Lot 783 the secondary dwelling proposed on Development lot 4 results in there being less than 3 hours of sunlight provided to the principal dwelling. If the secondary dwelling was removed, leaving only a single storey garage building, the principle dwelling's POS would be compliant. Similarly an above-garage Type 11 dwelling on an adjoining Development lot to the rear results in there being less than 3 hours of sunlight provided to the dwelling on Development lot 11,

On Lot 785 the dwelling on Lot 11 causes unacceptable overshadowing of the POS of the adjoining dwelling to the rear (Lot 9), even though it is only a single storey building. This issue can be said to largely relate to both lots not complying with the required minimum lot size, yet a relatively large dwelling being placed on them. The applicant has attempted to address this by moving the attached dwelling on Lot 9 back from the front boundary by 1m to provide for additional space within the front setback. While this assists in providing more amenity, the fact remains that this is not the principle area of POS and it is not particularly private either.

In the overall context of 76 x small lot housing dwellings, having only 3 that do not comply with solar access would normally be considered acceptable. However, the non-compliances in this instance would likely not exist if the required minimum lot sizes were adhered to, or if above-garage dwellings were removed. The variations are therefore not supported.

Summary of Assessment – Part 7 Small Lot Housing Controls

Overall, the proposed 76 x dwellings that have been assessed under Part 7 provide a reasonable amount of amenity and present a varied and interesting streetscape. However, many of the non-compliances with the applicable controls indicate poor levels of amenity

to particular dwellings, specifically the Type 11 above-garage dwellings and to some dwellings in Lot 783 and Lot 785 (exhibition village). Also, the streetscape proposed in Lot 785 is quite removed from what is currently envisioned for the identified small lot housing areas in Googong. The non-compliances can also be linked in many instances to the applicant choosing not to adhere to the required minimum lot size and introducing a new dwelling type (Type 11) not catered for in the controls.

Assessment of Relevant Controls - GCDP

Part 8 – Environmental Management

8.2 Soils and Salinity

The proposed development generally satisfies the relevant objectives and controls in this Part. A satisfactory Soil, Water and Vegetation Management Plan has been submitted with the application. Conditions of consent, should it be granted, will be imposed to ensure erosion and sediment controls are in place and maintained in accordance with the approved Soil, Water and Vegetation Management Plan.

Salinity investigations were undertaken by suitably qualified consultants as part of the Part 3A approval for the Integrated Water Cycle System and covered the whole township site including the land subject to this development application. The reports are included in the Environmental Assessment for the Part 3A application. Provided the commitments of the Part 3A approval are adhered to, the development will not significantly increase salt load and will minimise damage by saline soils.

8.3 Cut and Fill

The proposed development generally satisfies the relevant objectives and controls in this Part. (Also refer to assessment of earthworks under Clause 7.1 of the LEP).

Submitted technical reports and plans satisfactorily addresses the extent of cut and fill and site grading. Further details will necessarily need to be provided at Construction Certificate – Subdivision for the site works associated with the Stage 6 subdivision.

8.4 Stormwater Management and Flooding

The proposed development generally satisfies the relevant objectives and controls in this Part. (Also refer to Development Engineer’s assessment earlier in this Report). In summary:

- A satisfactory stormwater drainage analysis is included with the application;
- Natural drainage lines are incorporated in the stormwater and runoff drainage management system;
- Satisfactory stormwater management strategies form part of the application;
- Stormwater treatments include extended detention requirements, also incorporating Drainage Basin 8; and
- WSUD elements are incorporated in the design.

Further details will necessarily need to be provided at Construction Certificate – Subdivision for the site and drainage works associated with the Stage 6 subdivision.

8.5 Bushfire Management

The proposed development satisfies the relevant objectives and controls in this Part.

The land is not identified on the Queanbeyan Bushfire Prone Land Map. However, there is the possibility of fires occurring within surrounding grasslands. This hazard is addressed in the submitted Bushfire Protection Assessment prepared by Eco Logical Australia. This report recommends that temporary APZs be established along the borders of the subject land until these areas are subsequently developed. This will mainly involve the regular slashing of grass fuel loads. There are no temporary APZs proposed on land that is not within the boundaries of land owned by the developer of the Googong Township that will be progressively developed for residential use.

The Report specifically addresses the adjoining “Bunyip” land along part of the southern boundary of the site as an exception to this strategy as it is currently in separate private ownership. The Report states that the Bunyip land is currently managed via a regular maintenance regime by the property owners that is consistent with the outcomes of an APZ. As such, it is considered that there is no specific hazard of note within this adjoining property.

The 81 x proposed dwellings have been assessed as having a Bushfire Attack Level (BAL) of BAL-LOW and do not require any specific bushfire mitigation measures to be employed in their construction or maintenance.

8.6 Aboriginal Heritage

The proposed development satisfies the relevant objectives and controls in this Part and has satisfactorily taken Aboriginal Heritage into account. (Also refer to assessment of Aboriginal heritage under Clause 5.10 of the LEP).

The development application is accompanied by an Aboriginal Cultural Heritage Assessment that has been prepared with the appropriate investigations and in consultation with local Aboriginal groups consistent with Clause 5.10(8) of the LEP.

8.7 European Archaeological Heritage

The proposed development satisfies the relevant objectives and controls in this Part.

One European Historical site is recorded within the site covered by DA#1. There are no archaeological sites within the proposed development site.

8.8 Tree Retention and Biodiversity

The proposed development satisfies the relevant objectives and controls in this Part. (Also refer to assessment of trees and riparian land under Clauses 5.9 and 7.4 of the LEP, and impacts on threatened fauna and flora species and habitats under Section 5A of the Act).

The development site is predominantly grazing land with few remnant tree species. The remaining trees are of poor quality. No high quality trees identified in the Tree Assessment report are within the proposed development site.

Assessment of Relevant Controls - GCDP

8.9 Land Contamination Management

The proposed development satisfies the relevant objectives and controls in this Part. There are no areas of environmental concern within the proposed development site. Refer to assessment under SEPP 55 for detailed comments.

8.10 Odour

The proposed development satisfies the relevant objectives and controls in this Part. There are no dwellings or residential allotments proposed within the odour buffer zone of the Sewerage Treatment Plant.

8.11 Construction Waste

A Waste Management Plan must be provided for all development requiring construction works on site. The level of detail in the plan will reflect the scale of development being undertaken. A Waste Management Plan will be required to be submitted as part of a broader Construction Management Plan and a condition imposed accordingly.

Section 79C – Evaluation (cont)

Clause (1)(a)(iiia) – Any Planning Agreement

Council at its meeting on 23 March 2011 resolved the draft Googong Urban Development Voluntary Planning Agreement be executed. As a result of further negotiations between Council and the developer some further changes were made to the VPA. Council further resolved on 27 July 2011 that the Googong Urban Deed of Guarantee be executed as a Deed. On 23 November 2011 Council further considered and adopted minor amendments to the VPA.

The VPA is an agreement made between Queanbeyan City Council and Googong Township Pt Ltd following extensive negotiations that outlines infrastructure and services, and sustainability and affordability commitments associated with the development of the Googong urban release area that will be provided or met by the developers in lieu of payment of Section 94 Contributions. The VPA was prepared in such a way as to provide facilities to serve the 5,550 dwellings and approximately 16,000 people in Googong Township endorsed in the *Queanbeyan Residential and Economic Strategy 2006 – 2013* and reflected in the Googong Master Plan.

The proposed development will deliver the following items required under the VPA:

- Creation of a super lot for the Neighbourhood Centre (Civic Space);
- Local Park 3;
- Environmental management works, including the creation of Drainage Basin 8 and the off-set of approximately 510m² of riparian corridor land along Montgomery's Creek;
- Local roads, water and sewer infrastructure and storm water management;
- Affordable home packages; and
- Various monetary contributions for administration, ecological off-sets, off-site local roads and the Queanbeyan Cultural Centre.

The trigger for the provision of the most of the Development Contributions items relates to how many Equivalent Persons (EPs) are generated by the various stages of development. To work out how many EPs a development generates the number of dwellings within each of three development types is multiplied by an equivalent EP quotient contained in Schedule 6 of the VPA.

Schedule 6 – Equivalent Person Quotients

Column 1	Column 2	Column 3	Column 4
Development Type	Planned number of Dwellings of Development Type	Equivalent Person Quotient	Planned number of Equivalent Persons per Development Type
Development Type 1	2608.5	3.19 per Dwelling	8321
Development Type 2	2442	2.6359 per Dwelling	6437
Development Type 3	499.5	1.89 per Dwelling	944

Development Type 1 means – single dwellings on final lots (including individual lots in a strata plan) equal to or greater than 468m².

Development Type 2 means - single dwellings on final lots (including individual lots in a strata plan) less than 468m².

Development Type 3 means – residential apartments or secondary dwellings as defined in the LEP.

The VPA must be routinely reviewed every three years, but also can be reviewed if either Council or the Developer are of the opinion that a change of circumstance has occurred, or is imminent, that materially affects the operation of the VPA. It is acknowledged by Council in the VPA that the Development Contributions to be provided by the Developer may exceed the demand for public infrastructure generated by 5,500 dwellings. If more than 5,500 dwellings are permitted the Development Contributions must be adjusted accordingly.

The implications of using Community Titling to circumvent minimum lot size and housing density controls is that the planned number of dwellings and persons on which all of the Development Contributions are calculated no longer has a solid grounding. It becomes extremely difficult to estimate how many Development type 2 dwellings could be approved if a precedent is set by the proposed development and Community Titling is repeated throughout the Township to deliver individual Development Lots that are less than 170m², not just within 200 metres of Neighbourhood Centres, but potentially in a wider area.

The allowance in the VPA for Development Contributions to be adjusted if more than 5,500 dwellings are permitted is to allow for some necessary flexibility in the development of an entire Township over a 20-25 year period. If, for example, an amendment to the LEP were to allow for higher residential densities in Googong Township, then the VPA would also necessarily need to be reviewed and adjusted

accordingly. This could be done with the knowledge of accepted changes to the statutory planning framework, rather than as an ad-hoc process post-development consent for various stages of the Township.

By simply not applying any minimum lot size controls to the creation of individual Development Lots in Community Schemes a key foundation on which the VPA is based upon is stripped away. If the Developer wishes to pursue lot sizes smaller than provided for in the LEP then this should be done in the appropriate strategic mechanisms and not through individual Development Applications.

Appropriate conditions will apply to the consent in accordance with the VPA.

Section 79C – Evaluation (cont)

Clause (1)(a)(iv) – The Regulations

No matters prescribed in the Regulation are relevant in the consideration of the subject application.

Section 79C – Evaluation (cont)

Clause (1)(b) – The Likely Impacts of the Development

Context and Setting

Stage 6 Subdivision

The Googong Township rezoning took place in 2009. Stage 6 forms the third and last part of the broad scale subdivision to be undertaken for the Township. The Stage 6 subdivision is generally designed to complement the scenic qualities and landscape features of the locality and there will be minimal impacts on adjoining land use activities. The subdivision is not considered to be out of context with surrounding rural land which will also eventually form part of the Township.

Stage 3B Subdivision

The Stage 3B subdivision to create 4 x Community Title Schemes and the associated erection of 81 x dwellings is considered to be out of context with the future setting of the Township that is clearly articulated in the established planning framework. This is largely due to the attempted use of Community Schemes to circumvent minimum lot size controls and increase residential densities.

Access, Transport and Traffic

The proposed development's impact in relation to access, transport and traffic has been addressed by the applicant. However, Council's Senior Engineer – Development is not satisfied with access and traffic arrangements for some aspects of both the Stage 6 and Stage 3B parts of the proposed development. This results in 17 x residential lots within Stage 6 being recommended to be excluded from the recommended consent for this part of the development.

Appropriate conditions are recommended to ensure satisfactory provision is made for access, transport and traffic.

Public Domain

The proposed development will provide for adequate recreational opportunities for future residents.

The proposed development and subsequent development stages will have an impact on the Googong Foreshores recreational areas. Whilst the Googong Dam's primary function is for urban water supply, its foreshores are open to the public for recreational use (i.e. picnicking, boating and fishing). The proposed development is likely to result in increased human use of the foreshores.

Googong Township Pty Ltd (GTPL) is committed to making a financial contribution towards the capital and recurrent costs associated with the implementation of the Googong Foreshores Plan of Management. GTPL is also committed to undertaking a sustainability education program to educate residents on the biodiversity values of the Googong Foreshores. This will apply to future development stages.

The Australian Government Department of Sustainability, Environment, Water, Population and Communities in their EPBC Approval 2011/5829 requires the development of a Googong Foreshores Interface Management Strategy to implement proposed mitigation measures and financial commitments of Commonwealth land. The completion of the strategy will be implemented at a future date. The land to which this refers is outside the development site.

Utilities

Council's Senior Engineer - Development is satisfied with arrangements to service the land as detailed earlier in this Report.

Heritage

There are no known heritage sites that have not been previously identified within Neighbourhood 1A affected by the proposed development.

Other Land Resources

The proposed development will not adversely impact on valuable land resources for productive agriculture land and mineral and extractive resources.

Soils

A geotechnical engineer's report submitted by the applicant confirms soils are appropriate for the proposed development.

Water

The proposed development is sited within the Googong Creek catchment and will impact the Montgomery's Creek riparian corridor. A stormwater strategy has been prepared by Brown Consulting. Detention areas and stormwater harvesting have been designed to limit post development changes in flow rate and flow duration for the protection of receiving environments. The NSW Office of Water has issued General Terms of Approval for works within 40m of Montgomery's Creek.

Modelling of water quality measures as part of the integrated water management for Googong within Googong Creek catchment indicates the design achieves the pollutant removal targets with the inclusion of recycled water from the Googong Water Recycling Plant.

The integrated water cycle project will include a reduction in potable water use of 60% compared to the BASIX 40% requirement. The water cycle infrastructure is integrated with the stormwater and irrigation management proposed for the township.

Air and Microclimate

The construction stage of the proposed development will likely cause the emission of dust from earthworks. Management of this issue is to be addressed by the submission of a Construction Management Plan prior to issue of a Construction Certificate (Subdivision).

Flora and Fauna

A Flora and Fauna Assessment submitted by the applicant concludes the proposed development will not result in a significant impact to any threatened flora and fauna species. A Flora and Fauna Management Plan is to be prepared and submitted to Council prior to commencement of works.

A controlled action approval under the *Environment Protection and Biodiversity Conservation Act 1999* has been granted for the Googong Township subdivisions and urban works.

Waste

A Waste Management Plan will need to be submitted and approved prior to the issue of a Construction Certificate (Subdivision) and will form part of the Construction Management Plan.

Hazards

Potential hazards include from bushfire, contamination and salinity. These issues have been satisfactorily addressed in this Report. There are no areas of environmental concern identified within the proposed development site. A condition regarding bushfire Asset Protection Zones is recommended. There are no other hazards affecting the development site.

Social and Economic Impact in the Locality

The proposed subdivision to create Stage 6 is not expected to pose any negative social or economic impacts to the locality. There will be local economic benefits through employment opportunities during construction and provision of added housing stock opportunities and choice for the City to meet regional and local demands.

The potential social and economic impact of the proposed subdivision of land in Stage 3B to create 4 x Community Title Schemes and erect 81 x dwellings is unclear as it proposes lot sizes and housing types not permitted or envisioned within the established planning framework.

Site Design

The proposed subdivision to create Stage 6 is generally well designed in an environmentally sensitive manner, except for the residential lots that have vehicular access from a Local Arterial Road. The size, shape and design of allotments and roads take into account solar energy requirements and energy efficiency.

The assessment of the proposed subdivision of land in Stage 3B to create 4 x Community Title Schemes and erect 81 x dwellings has identified several instances where the size and shape of lots and the design of dwellings result in poor levels of amenity for future residents. Refer to assessment under the Googong Development Control Plan.

Construction

The construction stage of the Stage 6 subdivision will have the potential to impact on adjoining properties and the environment for a short period of time. Any approval is

recommended to be conditioned to ensure construction activities do not unreasonably impact on the adjoining properties and the environment by way of noise, erosion, dust and the like. These types of conditions are routinely imposed on development consents that involve construction. In addition, it is recommended that a Construction Management Plan which specifically addresses the generation of dust and noise be required to be submitted to Council for approval prior to the issuing of a Construction Certificate (Subdivision).

Cumulative Impacts

Cumulative impacts relate to the small impacts of developments in an area that when considered in unison can result in detrimental impact on the natural or built environment. It is considered that with adherence to recommended conditions of consent that the proposal will not give rise to any adverse cumulative impacts.

If approved, the proposed subdivision of land in Stage 3B to create 4 x Community Title Schemes and erect 81 x dwellings would set a precedent for the development of the rest of the Googong Township without a wider consideration of whether higher density residential development is appropriate for Googong. It is clear that if the proposed Community Title Schemes are approved, the applicant is likely to use this precedent to pursue similar development in other parts of Googong Township. While the total cumulative impacts of setting such a precedent are not clear, it *is* clear that it would constitute the disorderly development of the Township.

Section 79C – Evaluation (cont)

Clause (1)(c) – The Suitability of the Site for the Development

There are no physical constraints, heritage, threatened species, agricultural or mineral and extractive resource constraints impacting on the proposed development. The proposed development will not give rise to unmanageable transport demands, adequate recreational opportunities will be provided and all services will be available.

Section 79C – Evaluation (cont)

Clause (1)(d) – Any Submissions made in relation to the Development

External Referrals

1. NSW Police

Comment - Crime Prevention Through Environmental Design (CPTED) is a crime prevention strategy that focuses on the planning, design and structure of cities and neighbourhoods. Council has adopted the principles of CPTED through its DCPs. In keeping with these principles this major development proposal was forwarded to the Crime Prevention Officer at the Monaro Local Area Command for comment.

The Police assessment related to the proposed Community Title Schemes and construction of dwellings within Stage 3B. After conducting the CPTED process the NSW Police have identified the development as having a moderate crime risk.

The Police have expressed concerns mainly about the design of the laneways and rear access to garages. While the Police use the term driveways throughout their comments, the comments are generally more broadly aimed at the laneway design and how garages and car ports are accessed from rear laneways/driveways. A summary of the Police's comments is provided below.

a) Natural Surveillance and Territorial Re-enforcement

- i. While dwellings face the street, their main entry point for occupants will be from the rear driveways, making movement on the street limited.

Comment – The Googong Township has been broadly designed to be walkable and encourage the use of bicycles and public transport. It will generally be simpler for people wishing to walk somewhere to exit via the front of their property rather than through the rear laneway. The provision of some small areas of paving, decking and the like in most dwellings within the front yard will also promote the use of these spaces and ‘eyes on the street’.

- ii. Laneways have unnecessary turns and corners which provide concealment opportunities.

Comment – This concern relates to the offsets in the laneways. This was an issue discussed early in the development of the GDCP. At the time concern was expressed by Council about other developments where long linear laneways with continuous frontages of garages were unattractive, uncared for and generally resulted in many of the concerns indicated by the Police coming to fruition. The solution was to promote in the GDCP offsets in laneways to provide articulation, variety and opportunity for some landscaping. This arrangement is shown in the Googong Master Plan and Neighbourhood 1A Structure Plan.

The proposed dead-end at the northern end of Lot 784 does introduce an unnecessary concealment opportunity, however, this is mitigated by an above garage dwelling facing the dead-end. Nonetheless, this dead-end is considered to be unsatisfactory by Council’s Development Engineer and it is recommended that this laneway will be re-configured to remove the dead-end.

- iii. Surveillance of rear laneways and fence line is limited due to the dwellings being detached from garages. The design does not provide effective supervision or guardianship of rear driveways.

Comment – This concern is somewhat mitigated by their being some dwellings above garages proposed within each Community Scheme which have windows facing the laneway, while some can only be accessed from the laneway. By providing an attractive and articulated laneway area, (as required by the GDCP), people will be encouraged to take an interest in the area, rather than avoid it. Community Titling will necessarily also increase a sense of ownership and collective responsibility for the laneways and structures facing into them. The laneways will be a Community Property Lot with maintenance governed under a Community Management Statement.

- iv. Surveillance can be enhanced by mixing up the housing and vehicle entry design, which will introduce a variety of activities and ‘connection’ with the driveways and main roads.

Comment – The proposed housing designs are varied and should attract a mix of different people. ‘Mixing up’ vehicle entry design is not conducive to a cohesive streetscape or efficient street and road design.

b) Environmental Maintenance

- i. The almost sole use of driveways are for driving into private garages. These areas will therefore not be commonly used and residents will lack a sense of connection to them, thus increasing the risk of urban decay and malicious damage, such as graffiti. Strong consideration should be given to the use of graffiti resistant materials, particularly on fences and garages. A graffiti maintenance policy should be incorporated into the maintenance plan for the development.

Comment – See previous comments regarding similar concerns. Should the part of the proposed development that includes the Community Titled laneways be approved, a condition should require the Community Management Statement to address how graffiti will be managed. Comments regarding graffiti resistant materials will be included as notes to any development consent.

c) Access Control

- i. ‘Space Syntax Theories’ should be considered in relation to the driveways. Grid structure in design correlates with social surveillance, community bonds and the reduction of potential crimes and robberies. The application does not depict grid-like design.

Comment – Council considered this issue in the early stages of developing the GDCP and Master Plan. It was determined that small offsets in laneways to provide articulation, variety and opportunity for some landscaping, as well as the provision of some secondary dwellings above garages, would result in attractive, supervised laneways that will not exclusively be used for vehicle manoeuvring.

d) Lighting

- i. A lighting maintenance policy needs to be established for the development.

Comment – Laneways are required to be adequately lit. These details are shown at Construction Certificate – Subdivision stage. Should the part of the proposed development that includes the 81 x dwellings be approved, a condition should require the rear entries to be lit. Should the part of the proposed development that includes the Community Titled laneways be approved, a condition should require the Community Management Statement to address lighting maintenance within laneways.

2. NSW Department Planning and Infrastructure

Clause 6.1 of the LEP requires satisfactory arrangements to be made for the provision of designated State and Territory public infrastructure before the subdivision of land in an urban release area. The Director General’s Certificate – Satisfactory Arrangements for designated State and Territory Public Infrastructure was issued for the proposed development on 12 March 2014 (14/02802). Satisfactory Arrangements Certificates were also issued for DA#1 and DA#2.

3. Commonwealth Department of Infrastructure and Regional Development (DIRD)

Clause 7.6 of the LEP requires consultation with DIRD for the erection of structures that will penetrate the Obstacle Limitations Surface of the Canberra Airport. This consultation has commenced and is ongoing. DIRD do not object to the proposed development.

Internal Referrals

1. Building Surveyor

Council's Building Surveyor has assessed the proposed development and has raised no objections subject to the imposition of appropriate conditions. Specific comments include:

The development proposes a mixture of class 1a, 2 and 10a buildings. The proposal appears likely to comply with the Building Code of Australia (BCA). Matters such as fire and sound separation between buildings and the method of construction will need to be detailed at Construction Certificate stage.

2. Development Engineer

In addition to previous comments, Council's Senior Engineer Development advises the design and construction will need to comply with the adopted Googong engineering specifications and the Googong DCP.

Section 64 Headworks Contributions - The Googong Urban Development Local Planning Agreement provides for the developer to construct all water and sewer infrastructure to service the development, which is remote from Council's existing infrastructure. The resultant works in kind for the lead in infrastructure for water and sewer mean that S64 contributions should not be sought for the development.

Section 94 Contributions - The Googong Urban Development Local Planning Agreement provides for the developer to make contributions toward the upgrading of the road network that will service the development, to provide community facilities within the development and to provide contributions towards off site facilities. Therefore, S94 contributions should not be sought for the development.

3. Environmental Health

Contamination issues have been satisfactorily addressed as indicated earlier in this Report.

Council's waste collection contractor will be able to collect individual bins from the dwellings in the proposed Community Title Schemes from identified communal collection points.

Amenity issues such as noise, dust and erosion control can all be dealt with by way of conditions of consent.

4. Parks and Recreation

Council's Parks and Recreation Manager advises that the plans for landscaping of public streets and open space areas are in keeping with earlier designs and consultations with the developer. No objections are raised to the proposed Parks designs and streetscapes.

Community Consultation

The application was publicly notified and exhibited as integrated development from 1 November 2013 to 2 December 2013 and adjoining property owners and occupiers were notified by mail. Two written public submissions were received during this period. The issues raised in these submissions are summarised below, with comments provided as relevant.

Issue: The Commonwealth Department of Finance and Deregulation, as the agency responsible for the Googong Foreshores, has made a submission. It states that development should be undertaken in accordance with a Construction Environment

Management Plan (CEMP). The Australian Government Department of Finance and Deregulation.

Comment – Should development consent be granted a recommended condition will require the submission of a comprehensive Construction Management Plan (CMP) for the subdivision works, as per previous consents for subdivision in the Googong Township.

Issue: The ‘Googong NH1A Design Plan Report’ and the ‘Volume 02 – Subdivision Plans for Approval’ differ in layout to the ‘Neighbourhood Structure Maps’ in Appendix 3 of the Googong DCP with respect to the location of the Public School and the site size and geometry of the proposed Anglican School.

Comment – The location of the Public School was approved under a State Developer Agreement (SDA) in September 2011 and development consent 41-2011 issued in December 2011. Neighbourhood Structure Plans are necessarily conceptual, with the final location of specific elements and boundaries subject to development approval. The creation of the lot for the Anglican school site was approved under development consent 233-2012 issued in January 2013. The development of the first stage of this school was approved under development consent 178-2013 issued in March 2014.

Issue: The indicative road layout for Neighbourhood 2 (NH2) is potentially inconsistent with the proposed alignment of Helen Street in Stage 6D.

Comment – The applicant advises that the proposed alignment of Helen Street is a result of the movement of the public school site, more efficient use of the super lots on Helen and Sapphire Street and better alignment and safety of the intersection between Sapphire/Wilkins and Helen/Aiken Street.

Council’s Development Engineer supports the proposed alignment of Helen Street.

Issue: Rose Street is proposed as a cul-de-sac, without construction of the road along the southern edge of the Anglican School site. When and by whom is this road (or half-road) to be constructed?

Comment - The applicant advises that Rosa St is proposed as a temporary turning head to allow safe turning in and around the Anglican School. It will be removed once the surrounding development requires it. Further, the applicant has advised that road that is indicatively shown as running along the southern boundary of the Anglican School site this road is not currently required as part of any approval currently being sought. It is their intention that this road will be the subject of a separate Development Application when the Master Plan and delivery of the Anglican High School requires it—anticipated to be around 2018 (based on the Anglican Diocese’s latest advice).

Issue: Rogers Road within Stages 6a and 6c is indicated as a Street Type 4B, with a 5.5m carriageway within an 18.7m road reserve. Is this road proposed as a one-way or two-way road for the purpose of this DA? Is this intended to change after future residential development of the adjoining land (Bunyip Land)? The design plans indicate an intersection ‘stub’ off Helen Street into Bunyip, inferring that Rogers Road is intended ultimately as a dual carriageway with an extremely wide central landscaped median encroaching into Bunyip, thereby potentially restricting the future lot yield of Bunyip. If so, why?

Comment - The applicant advises that Rogers Road is consistent with the Googong DCP. Its final form is intended to be that of a two-way road divided by a median strip that may

include the preservation of an existing stand of trees within the Bunyip land boundary. However, for the purposes of the subject application, the road will be one-way.

The 'stub' off Helen Street is not proposed to be formed as a section of road as a part of the subject application. This will allow for the reconsideration of the final location of the southern portion of Rogers Road and width of the median strip. Council's Development Engineer advises:

- Rogers Road, east of Rosa Street, will be constructed as the eastbound lane of a Type 4 Local Street (Boulevard), with the remaining westbound lane to be ultimately constructed as part of the adjacent development site (Bunyip land). The intent of this road form is to preserve the existing row of trees on the northern edge of the "Bunyip" site; and
- Rogers Road, west of Rosa Street will be constructed in the future to provide access to the school site and the Bunyip subdivision. The timing of construction will be dependent on the future construction programmes for these developments. The section within the Stage 3 Googong Township area will be the responsibility of GTPL (the applicant) and may require a DA for road construction and services.

Issue: The typical road cross-section indicates that stormwater runoff from Rogers Road pavement discharges directly into Bunyip due to the proposed one-way cross-fall and flush kerb. This flow from the road pavement is apparently uncontrolled, without detention or water quality treatment prior to discharge into Bunyip.

Comment - The applicant advises that the grade of Rogers Road is such that storm water runoff from the road is likely to drain towards Helen Street, rather than onto the Bunyip boundary and what will eventually encompass the Rodgers Road median. However, if the submitter remains concerned the applicant is willing to pursue a surface swale to direct the minor flow away from the boundary.

Council's Development Engineer advises that temporary bunding will be required along the southern edge of the road to contain storm water flows within the site, rather than discharging to the "Bunyip" land.

Issue: The Stage 6 Landscape Masterplan (Aecom Figure 3) indicates the retention of a row of existing trees along the boundary of Bunyip and Rogers Road, without recognition that a proportion or all of these trees are within Bunyip and are not within the proponent's Stage 6 site. The Landscape Plan does not recognise that such trees may not be retained in any future residential development of Bunyip.

Comment - The applicant advises that they agree that the stand of trees is located within the Bunyip land and their retention or removal should be subject to a separate development approval. However, as a significant stand of existing trees within the overall context of the Googong Township, the intention of the master planning process is to retain the trees as a visual and historic site resource.

The retention of the stand of trees cannot be required as a part of the subject application as it is not within the development site's boundaries. The retention or otherwise of these trees will be considered when/if the Bunyip land is further developed. Should development consent be granted any plans that indicate the trees being retained will be amended in red to show that this is indicative only and not a part of the consent.

Issue: The ‘Googong NH1A Design Plan Report’ and the ‘Volume 02 – Subdivision Plans for Approval’ indicate the presence of a potential Aboriginal PAD (potential archaeological deposit) within the Bunyip land without any reference in the supporting reports as to why the Development Application indicates this PAD on adjoining land not the subject of the DA nor on land owned by the proponent. Further investigation has revealed that the PAD site has been nominated without any subsurface investigations by the proponent. The proponent should only reference issues relating to the proponent’s site.

Comment - The applicant advises that they agree that the subject application has no bearing on any potential archaeological deposit (known or otherwise) within the Bunyip land and requests Council to ignore the reference to PAD 17.

Should development consent be granted any plans that indicate PAD 17 will be amended in red to show that this does not relate to the subject application and is not a part of the consent.

Issue: The ‘Googong NH1A Design Plan Report’ and the ‘Statement of Environmental Effects’ (SEE) reference a bushfire strategy and report by Australian Bushfire Protection Planners and a later report by EcoLogical. The SEE refers to the need for a temporary Asset Protection Zone (APZ) to the land directly to the south of the Stage 6 development, with ongoing maintenance procedures.

Presumably the proponent is proposing that these APZs are within Bunyip, however Bunyip’s owners have not been formally notified of the proponent’s intentions nor given concurrence to the provision and maintenance of the subject temporary APZs within Bunyip for the Stage 6 DA.

Comment - The applicant advises that the Bunyip land is classified as “managed land” and therefore no works are required to establish or maintain an APZ.

The subject land is not identified as being Bush Fire Prone Land on the Queanbeyan Bush Fire Prone Land Map. However, there is the possibility of fires occurring within surrounding grasslands. This hazard is addressed in the submitted Bushfire Protection Assessment prepared by Eco Logical Australia.

There are no temporary APZs proposed on land that is not within the boundaries of land owned by the developer of the Googong Township that will be progressively developed for residential use. The Eco Logical Report recommends that temporary APZs be established along the borders of the subject land until these areas are subsequently developed. This will mainly involve the regular slashing of grass fuel loads.

The Report specifically addresses the Bunyip land as an exception to this strategy as it is currently in separate private ownership. The Report states that the Bunyip land is currently managed via a regular maintenance regime by the property owners that is consistent with the outcomes of an APZ. As such, it is considered that there is no specific hazard of note within this adjoining property.

Issue: The staging of the Googong Township, specifically the Neighbourhood 1A boundary, unfairly precludes the timely development of the Bunyip land by including it in Neighbourhood 2 rather than NH1A. Multiple reasons are provided by the submitter for including the Bunyip land into NH1A

Comment – The Bunyip land lies within a south-eastern portion of Neighbourhood 2 as shown in the Googong Township Master Plan. There are no compelling reasons brought

about by the subject application to warrant making significant alterations to the staging of the Googong Township. Any consideration of such changes is correctly done through the Strategic Planning process and not through the assessment of an individual Development Application for one stage of NH1A.

Section 79C – Evaluation (cont)

Clause (1)(e) – The Public Interest

The applicant states in their submitted Statement of Environmental Effects (SEE) that the subject application is in the public interest as it is, “consistent with the planning framework that has been established”. Further, it is argued that approval of the application will create the opportunity to deliver additional housing within Queanbeyan, which will assist in alleviating housing affordability issues by increasing supply.

The assessment of the subject application has clearly shown that it is *not* consistent with the established planning framework. Moreover, the correct process to decide whether providing greater amounts of affordable housing and more variety of small lot housing than what is currently permitted in the LEP and the GDCP through the introduction of additional mechanisms is through a consideration of the strategic aims of the development of Googong Township as a whole, and not limited to a particular development application.

It is clearly not in the public interest to approve an application that undermines the established planning framework and contravenes the objects of the Act and the Queanbeyan Local Environmental Plan 2012.

Section 80 – Determination

Section 80(4) of the Act enables the consent authority to grant partial development consent for a proposed development, except for a specified part. Further, it allows for a specified aspect of the part of the development being approved to be excluded.

Section 80(4) states:

A development consent may be granted:

- (a) for the development for which the consent is sought, or*
- (b) for that development, except for a specified part or aspect of that development, or*
- (c) or a specified part or aspect of that development.*

It is intended that should the application be approved it will be pursuant to Section 80(4)(b), being only for the Stage 6 subdivision, which is a specified part of the subject development application. However, pursuant to Section 80(4)(c) a specified aspect of the Stage 6 subdivision, is to be excluded from any partial consent. This exclusion relates to the lots proposed with vehicular access to Gorman Drive, as well as the neighbouring lots within the same block.

Section 91 – What is “Integrated Development”?

The proposed development requires a controlled activity approval under Section 91 of the *Water Management Act 2000* for works within 40 metres of Montgomery’s Creek. The NSW Office of Water is the approval body. They issued their General Terms of Approval

for the proposed development on 20 December 2013. Should development consent be granted these are to be included as an attachment to the consent and conditioned to be complied with.

Conclusion

The part of the proposed development that includes the subdivision of land within Stage 3B of Neighbourhood 1A does not satisfy all of the relevant statutory and local planning controls. As discussed throughout this Report there are significant public interest concerns resulting from this part of the development.

The proposed subdivision of land in Stage 3B of Neighbourhood 1A of the Googong Township is recommended for refusal.

The part of the proposed development that includes the subdivision of land to create Stage 6 of Neighbourhood 1A generally satisfies all relevant statutory and local planning controls. It will have an acceptable impact on the site, local environment and neighbouring properties and there are no significant public interest concerns resulting from this part of the development.

The proposed subdivision of land to create Stage 6 of Neighbourhood 1A of the Googong Township is recommended for conditional approval (noting the excluded lots).

Recommendations

1. That pursuant to Section 80(4) of the *Environmental Planning and Assessment Act 1979* (the Act) the part of the development application that proposes:
 - The re-subdivision of un-registered Lots 782, 783, 784 and 785, (currently forming part of registered Lot 280 DP 1185463 but approved under development consent 233-2012/A) to create 6 x super lots for future residential development and 4 x Community Title Schemes under the *Community Land Development Act 1989*; and
 - The construction of 81 x dwellings on 76 x community development lots within the abovementioned Community Title Schemes, of which 5 x lots are proposed to have a residential building further subdivided by Stratum subdivision under Sections 196B – 196L of the *Conveyancing Act 1919*;

be refused for the following reasons:

- a) The proposed development contravenes the objects of the Act listed at *Section 5 - Objects*, specifically objects (a)(i) and (a)(ii) in that does not represent or encourage the proper management and development of the Googong Township, and does not represent or encourage the promotion and co-ordination of the orderly and economic use and development of land;
- b) Contravenes an environmental planning instrument (the Queanbeyan Local Environmental Plan 2012), by proposing to create lots sizes that are less than the required minimum prescribed in *Clause 4.1 – Minimum subdivision lot size* and *4.1D – Variation to minimum lot size* and not being in accordance with the objectives of these clauses. Specifically, objectives (c) and (e) of Clause 4.1, which require lots that have sizes and dimensions that are appropriate for the siting of structures, and lots that are compatible with the desired future character of the locality, and the objective of Clause 4.1 D to provide opportunities for affordable medium density housing in appropriate locations;
- c) Inconsistent with the aims of the aims of the Queanbeyan Local Environmental Plan 2012 (the LEP) listed in *Clause 1.2 – Aims of the plan*, specifically aim (g) in that it does not represent or facilitate the orderly growth of the Googong urban release area;
- d) Inconsistent with the objectives of the R1 – General Residential zone listed in LEP Land Use Table, specifically, the objective to encourage medium to high density housing located in close proximity to the town and village centres, in that it includes creating residential lots that are less than 330m² and outside of the areas identified in the LEP as being located in close proximity to the town and village centres and suitable for medium to high density housing on lot sizes less than 330m²;
- e) Inconsistent with the objectives of *Clause 4.4 – Floor space ratio* of the LEP, specifically objectives (a) and (b) in that it includes a density and scale of residential development that is inappropriate for the site and does not integrate with the intended character of the area;
- f) Non-compliant with the following development controls of the Googong Development Control Plan:
 - a. 1.16 – General Design (Subdivision);
 - b. 1.17 – Lot Size and Design;
 - c. 1.23 – Roads, Traffic (vehicles, cyclists, pedestrians) and Access;
 - d. 1.24 – Solar Access and Lot Orientation;
 - e. 3.8 – Controls for Releasing Land for Development in Googong;
 - f. 3.22 – Housing Diversity;
 - g. 4.2 – Subdivision – General Controls;
 - h. 4.4 – Lot Orientation and Lot Size and Layout;
 - i. 5.2 – Street Network;
 - j. 5.3 – Main Road;
 - k. 6.25 – Secondary Dwellings;
 - l. 7.2 – Streetscape;
 - m. 7.4 – Building Form and Design;
 - n. 7.10 – Private Open Space; and
 - o. 7.14 – Solar Access.
- g) Inconsistent with the objectives of the Googong Master Plan as listed in Part 3 of the Googong Development Control Plan;

- h) Pursuant to Section 79C(1)(iiia) of the Act, is inconsistent with the Googong Urban Development Voluntary Land Planning Agreement (the VPA) as it undermines the planned number of dwellings and persons on which all of the Development Contributions are calculated and provision of infrastructure and community facilities for the Googong Township relies.
- i) Pursuant to Section 79C(1)(e) of the Act, the proposed development is not in the public interest for the following reasons;
 - a. Is inconsistent with the *Sydney – Canberra Corridor Regional Strategy 2006 - 2031* Housing and Settlement Outcomes to utilise Neighbourhood Planning Principles to achieve a form of urban settlement that supports multiple forms of transport, provides jobs close to home, respects the environment and has adequate infrastructure,
 - b. Is inconsistent with the *Sydney – Canberra Corridor Regional Strategy 2006 - 2031* Housing and Settlement Actions to plan for a range of housing types with appropriate densities and in appropriate locations that are capable of adapting to and responding to the ageing populations and people with a disability and to consider a range of affordable housing strategies, including forms of low-cost housing, suitable zonings and development controls to improve housing choice that is consistent with relevant state policies,
 - c. Is inconsistent with, and subverts, a key principle of the *Queanbeyan Residential and Economic Strategy 2006 – 2031* (the Strategy) that new housing development should occur on several fronts, progressed simultaneously and by more than one developer in order to provide appropriate housing choice in terms of location, style form and affordability, and be undertaken by a minimum of two development interests,
 - d. Is inconsistent with the Googong Urban Development Voluntary Land Planning Agreement which ensures that infrastructure and community facilities are delivered in an appropriate and timely manner,
 - e. The Community Title Schemes do not provide any tangible additional amenity and/or facilities above what is, or will be, provided to any other resident in the Googong Township. There is no compelling public interest reason why future residents should be required to bear the burden of the higher recurrent costs and legal obligations associated with Community Title Schemes, particularly as there is a clear strategic planning process in place for the developer to pursue smaller lot sizes and additional small lot housing types,
 - f. The correct process to decide whether providing greater amounts of affordable housing and more variety of small lot housing than what is currently permitted in the LEP and the GDCP through the introduction of additional mechanisms is through a consideration of the strategic aims of the development of Googong Township as a whole, and not limited to a particular development application. This would include, but not be limited to, preparing a Planning Proposal to amend the LEP to allow for smaller lot sizes, and

- j) Pursuant to Section 79C(1)(b) of the Act
- a. *Site Design* - The assessment has identified several instances where the size and shape of lots and the design of dwellings result in poor levels of amenity for future residents,
 - b. *Social and Economic* - The potential social and economic impact of the proposed development is unclear as it proposes lot sizes and housing types not permitted or envisioned within the established planning framework,
 - c. *Context and Setting* - Is considered to be out of context with the future setting of the Township that is clearly articulated in the established planning framework.
 - d. *Cumulative Impacts* - If approved, the proposed development will set a precedent for the development of the rest of the Googong Township without a wider consideration of whether higher density residential development is appropriate for Googong. This constitutes the disorderly development of the Township.
2. That pursuant to Section 80(4) of the *Environmental Planning and Assessment Act 1979* (the Act) the aspect of the proposed development for the creation of residential allotments in Stage 6 specified in the Table below be excluded from any consent as they propose vehicular access onto Gorman Drive which is a Local Arterial Road.

Excluded Lots	
Proposed Stage 6D	Lots 89 – 97 inclusive
	Lots 99 – 107 inclusive

3. The proposed variation to Part 4.4 – Lot Orientation of the Googong Development Control Plan to allow for proposed residential lots 125 and 126 within Stage 6D to have a lot width of 11.71m be supported for the following reason:
- a. The lots are located on an arc and the area, width and depth of the lots at the building line is substantial enough to meet the control objectives; and
 - b. Both lots 125 and 126 become increasingly wider from the frontage and will be able to accommodate a future dwelling-house that is compliant with the applicable development standards and controls.

4. The proposed variations to Part 5.2 – Street Network of the Googong Development Control Plan to allow for an 7.5m wide carriageway for Local Street Type 3 and the provision of footpaths on both sides of Local Street Type 3 which are also within the “Additional Development Area” identified in the Queanbeyan Local Environmental Plan 2012 be supported for the following reasons:
 - a. As it will maintain a streetscape uniformly throughout Neighbourhood 1A and supports the concept of “walkable neighbourhoods”; and
 - b. Is in keeping with the objectives of the overall street network and those specific to the street type.
5. The proposed variation to Part 5.2 – Street Network of the Googong Development Control Plan to allow for an 7.5m wide carriageway for Open Space Drive 1 be supported for the following reason:
 - c. As it will maintain a streetscape uniformly throughout Neighbourhood 1A and is in keeping with the objectives of the overall street network and those specific to the street type.
6. That the part of the Development Application 186-2013 which proposes the subdivision of Lot 1 DP 1183929, Lot 280 DP 1185463 and Lot 5 DP 1179941 to create Stage 6 of Neighbourhood 1A of the Googong Township (excluding the subdivision of land on those lots listed in Recommendation 2 above) be granted consent subject to the following conditions:

Conditions

CONDITIONS TO BE COMPLIED WITH PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE (SUBDIVISION)

1. In accordance with Section 109F of the *Environmental Planning and Assessment Act 1979* a Construction Certificate (Subdivision) will not be issued for any Stage of the development with respect to the plans and specifications for construction works until any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid. Currently this rate is 0.35% of the cost of the construction works costing \$25,000 or more.

REASON: To satisfy relevant provisions of the *Environmental Planning and Assessment Act 1979*.

2. Prior to release of the Construction Certificate (Subdivision) a Construction Management Plan (CMP) must be submitted to Council and approved by Principal Certifying Authority for the proposed construction works or, if the proposed works are staged, for each stage of the proposed construction works. The plan must:
 - (a) describe the proposed construction works;
 - (b) outline the proposed construction program;
 - (c) set standards and performance criteria for each of the relevant environmental issues [see (f) below];
 - (d) describe what actions and measures would be implemented to ensure that these works comply with the specified standards and performance measures;
 - (e) describe how the effectiveness of these actions and measures would be monitored during the proposed works;

(f) include a detailed:

- Soil, Water and Vegetation Management Plan,
- Waste Management Plan to identify the type of waste that will be generated by the development and method of disposal to be utilised. Applicants should consider whether it is possible to re-use materials either on-site or off-site,
- Noise Management Plan,
- Dust Management Plan,
- Traffic Management Plan prepared in accordance with the requirements of Council's City Infrastructure Division,
- Construction Staging Plan;

(g) describe what procedures would be implemented to receive, register, report and respond to any complaints during the construction works; and

(h) identify the key personnel who would be involved in the construction works, and provide contact numbers for this personnel.

The approved CMP is to be adhered to at all times during construction works of each stage.

REASON: To ensure satisfactory environmental management of the site.

3. A SIDRA analysis of the intersection of Old Cooma Road and Googong Road shall be undertaken and approved by Council and the NSW Roads and Maritime Services prior to the issue of any Construction Certificate – Subdivision. The SIDRA analysis shall incorporate a sensitivity analysis to determine at what traffic volume the Level of Service (LOS) for the right turn from Googong Road into Old Cooma Road reaches LOS's D and E.

REASON: To determine appropriate timing for the upgrade of the intersection.

4. A design for the upgrade of the Old Cooma Road / Googong Road intersection (based on the approved SIDRA analysis) shall be undertaken by the applicant and approved by Council and the NSW Roads and Maritime Services prior to the issue of any Construction Certificate – Subdivision that will create lots that generate traffic movements such that the intersection reaches LOS D.

REASON: To provide for upgrade of the intersection to accommodate future traffic generation.

5. A revised Street Hierarchy and Typical Cross Section Plan for Gorman Drive must be submitted to Council for approval. It must show the continuation of the on-road bicycle lane on Gorman Drive in the section where it becomes Street Type One (ST1), adjacent to the Neighbourhood Centre.

REASON: To ensure compliance with the Googong Master Plan and Neighbourhood 1A Structure Plan.

6. Prior to the issue of Construction Certificate (Subdivision) a revised subdivision and staging plan shall be submitted to Council to reflect the changes to the Stage 6 subdivision resulting from the lots excluded from this consent as per Condition 30 of this consent.

REASON: To ensure a correct subdivision and staging plan are submitted to Council to reflect changes caused by the exclusion of 17 residential allotments from the consent.

PRIOR TO COMMENCEMENT OF WORKS

7. A Flora and Fauna Management Plan (FFMP) is to be prepared at the applicant's cost and submitted to Council prior to commencement of works. The recommendations of the FFMP are to be implemented during the pre-construction, construction and post construction phases.

This Plan should detail the impact avoidance and mitigation measures that would be implemented to reduce adverse impacts on flora and fauna during tree removal and clearing, excavation of trenches, rehabilitation of disturbed areas after disturbances and activities such as weed management and re-establishment of native vegetation by revegetation.

The Plan should also include a monitoring and review program.

Key elements of the FFMP are to include the following as outlined in the Googong NH1A Subdivision Ecological Assessments – Terrestrial Flora and Fauna Report, July 2009 prepared by Ecowise Environmental and BIOSIS Research:

- Removal of significant trees.
- Habitat protection and flora management.
- Managing invasive species.
- Managing roadside vegetation.
- Managing impacts during construction.
- Fauna management.
- Managing impacts on Commonwealth land.

REASON: To minimise any impacts on flora and fauna.

8. A Construction Certificate (Subdivision) and accompanying engineering design plans and Certification Report shall be submitted to Council prior to the commencement of any works for a subdivision stage. Works associated with the subdivision stage shall subsequently be carried out in accordance with the detailed design drawings and specifications the subject of the Construction Certificate (Subdivision).

The engineering plans must comply with the requirements of Council's *Development Design Specification – Googong* (Version 1, dated June 2011) and include the following where applicable to a subdivision stage –

- A Certification Report in accordance with Clause DQS.04;
- This general note – *All work must be constructed in accordance with the requirements of Queanbeyan City Council's Development Construction Specification* (Version 3.1, dated June 2011);
- Design of a stormwater network, including a major/minor street stormwater system, any required interallotment drainage lines, any required detention basins, water quality ponds and/or gross pollutant traps and Water Sensitive Urban Design devices;
- Design of a dual water supply network (drinking water and non-drinking water) linking to infrastructure to be constructed in Stages 1- 5 of the subdivision (DA 42-2011 & DA 233-2012);
- Design of a sewerage network linking to existing infrastructure to be constructed in Stages 1- 5 of the subdivision (DA 42-2011 & DA 233-2012);

- Design of the roads in the subdivision to the following standards (as defined in Schedule 4) –
 - Gorman Drive as a Local Sub-Arterial Road,
 - Aprasia Avenue as a Local Street 2 (ST2),
 - Daniel Street, Underhill Street, Zealie Street, Helen Street (2 parts), Sapphire Street, Wilkins Street, Aitkin Street and Hawke Street as a Local Street 3 (ST3),
 - Rogers Road as one side of a Type 4 Local Street (Boulevard) (ST4),
 - Helen Street (Pt) as an Open Space Drive 1 (DR1),
 - Hale Street as an Open Space Drive 2 (DR2),
 - Banksia Street as an Open Space Drive 2 (DR2) with 90⁰ angle parking spaces on its west side' and
 - The access laneway to proposed Lot 100 and Detention Basin 8 as a Shared Access;
- Road pavements designed as flexible pavements with a primer seal plus Asphaltic Concrete (AC10) nominated as the wearing surface;
- Driveways designed as rigid concrete pavements;
- Where barrier kerb is used the location of vehicle kerb crossings must be indicated;
- Provision of a temporary bus route with bus stops;
- Provision of a 2.0 m wide key path in Aprasia Avenue, 1.5 m wide paths on both sides of streets in the Urban Village area and a 1.5 m wide path on one side of all other streets;
- Design of retaining walls greater than 1.0 metres in height;
- Landscape plan for reserves and street tree planting;
- Irrigation supply (permanent and temporary);
- Site works including bulk earthworks, dams water quality ponds and retarding basin construction;
- Vegetation management plan;
- Soil and water management plans including erosion control measures;
- Construction compound and site amenities;
- Street and public open space lighting to current best practice energy efficiency standards and
- A Traffic Control Devices (TCD) Plan that includes line-marking, sign-posting and Local Area Traffic Management

REASON: To provide design certification of the subdivision works.

9. Submission of an application for a Compliance Certificate under Section 307 of the Water Management Act 2000 for each subdivision stage to the Water and Sewer Authority (Queanbeyan City Council). The application must be accompanied by the relevant fee and four copies of the Civil Engineering plans for the design of the water reticulation and sewerage systems, drawn in accordance with Council's *Development Design Specification – Googong* (Version 1, dated June 2011), for assessment and approval by Council.

Upon approval of the hydraulic design a Compliance Certificate in accordance with section 307 of the Water Management Act 2000, will be issued by Council. The Compliance Certificate must be obtained prior to the issue of a Construction Certificate (Subdivision).

REASON: To ensure that hydraulic design is in accordance with Council requirements.

10. A Notice to Commence Subdivision Works must be submitted to Council two days prior to commencing work on each subdivision stage and must nominate Council as the Principal Certifying Authority.

NOTE: A quotation for Council to perform the duties of Principal Certifying Authority for the subdivision works will be provided upon submission of the Construction Certificate (Subdivision) to Council.

REASON: To ensure the provisions of the *Environmental Planning and Assessment Act 1979* are satisfied.

11. A sign must be erected in a prominent position on the work site prior to the commencement of works:

- (a) stating that unauthorised entry to the work site is prohibited,
- (b) showing the name of the person in charge of the work site, and
- (c) advising telephone numbers at which that person may be contacted during work hours and outside work hours
- (d) showing the name of the principal certifying authority and contact details.

The sign is to be removed when the work has been completed.

REASON: To provide notification of the work site and site supervisor to the general public in emergency situations.

12. Toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the work site.

Each toilet provided:

- (a) must be a standard flushing toilet, and
- (b) must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage treatment facility approved by Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by Council.

The provision of toilet facilities in accordance with this clause must be completed prior to commencement of any work on the site.

REASON: To provide adequate and hygienic amenities for people working on the site.

DURING CONSTRUCTION

13. All earthmoving contractors and operators must be instructed that, in the event of any bone or stone artefacts, or discrete distributions of shell being unearthed during earthmoving, work should cease immediately in the affected area and the Ngambri Local Aboriginal Land Council and officers of the Office of Environment and Heritage (Queanbeyan Office), informed of the discovery. Work must not recommence until the material has been inspected by those officials and permission has been given to proceed. Those failing to report a discovery and those responsible for the damage or destruction occasioned by unauthorised removal or alteration to a site or to archaeological material may be prosecuted under the *National Parks and Wildlife Act 1974*, as amended.

REASON: To ensure adequate procedures are in place should significant items of Aboriginal Heritage be discovered.

14. In the event that object(s) which are suspected of being Aboriginal object(s) or relic(s) are encountered during development works, then the following protocol will be followed:

- (a) Cease any further excavation or ground disturbance, in the area of the find(s).
 - (i) The discoverer of the find(s) will notify machinery operators in the immediate vicinity of the find(s) so that work can be temporarily halted, and
 - (ii) The site supervisor and the Principal will be informed of the find(s).
- (b) Do not remove any find(s) or unnecessarily disturb the area of the find(s).
- (c) Ensure that the area of the find(s) is adequately marked as a no-go area for machinery or further disturbance, and that the potential for accidental impact is avoided.
- (d) Note the location and nature of the find(s) and report the find(s) to:
 - (i) Relevant project personnel responsible for project and construction direction and management;
 - (ii) With regard to suspected Aboriginal objects, report the find to the Office of Environment and Heritage, and
 - (iii) With regard to suspected (non-Aboriginal) relics the Office of Environment and Heritage.
- (e) Where feasible, ensure that any excavation remains open so that the finds can be recorded and verified. An excavation may be backfilled if this is necessary to comply with work safety requirements and where this action has been approved by The Office of Environment and Heritage. An excavation that remains open should only be left unattended if it is safe and adequate protective fencing is installed around it.
- (f) Following consultation with the relevant statutory authority (Office of Environment and Heritage) and where advised, any other relevant stakeholder groups, the significance of the finds should be assessed and an appropriate management strategy followed. Depending on project resources and the nature of the find(s), this process may require input from a consulting heritage specialist.
- (g) Development works in the area of the find(s) may recommence with approval of the relevant statutory authority.

REASON: To ensure adequate procedures are in place should significant items of Aboriginal Heritage be discovered.

15. Any works associated with the construction and/or establishment of this development must **ONLY** be carried out between the following hours:

Weekdays:	7.00am to 6.00pm
Saturdays:	8.00am to 4.00pm
Sundays/Public Holidays	NO WORK

The applicant is responsible to instruct and control subcontractors regarding hours of work.

Note: To undertake works involving the use of equipment which creates an offensive noise is a breach of the provisions of the Protection of the Environment Operations Act 1997 and Regulations thereunder.

REASON: To ensure a noise problem does not result from the development and the impact on the local amenity is minimised.

16. The applicant must ensure that noise generated by the development does not exceed the criteria set by the Office of Environment and Heritage. This is generally a level of 5dB above background noise level.

This is measured by monitoring the level of noise from any activity within the development represent by the L_{aeq} descriptor, measured over a 15 minute period. This measurement must not exceed the background level at that time of day by more than 5dB.

REASON: To minimise the impact of noise generated by the development on surrounding residential areas.

17. The applicant must ensure the following:

- All construction or the like waste shall not be stored or stockpiled on the site and must be disposed of to an approved waste facility;
- Clean up equipment including suitable absorbent material shall be available on site to effectively deal with liquid contaminates such as oils and chemical spills;
- All disturbed and exposed areas shall be revegetated. Revegetation of such areas shall be implemented as soon as construction works end in each area of the development;
- Adequate measures shall be taken to prevent dust from affecting the amenity of the surrounding rural neighbourhood;
- A water tank designed to suppress dust from exposed surfaces and access roads shall be available on the site or in the immediate vicinity during construction works. Exposed surfaces and access pads shall be regularly wetted to suppress dust generation until such time that construction is completed and areas have been revegetated. All disturbed areas shall be revegetated immediately after completion of works;
- No burning of cleared vegetation or other waste material shall occur on this site prior to or during the construction phase of the development;
- All vegetation material is to be chipped and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at an approved landfill site;

- Materials resulting from excavation of the site must be stored wholly within the property boundaries unless written authority from adjoining property owner/s is first obtained for the storage of the excavation material on the adjoining site subject to erosion controls being put in place. All excess excavation material must be removed from the site and disposed of at an approved landfill site. The site is also to be rehabilitated to existing surface levels and regressed; and
- Any construction access to the site shall have a shake down grid(s) or equivalent installed to minimise transportation of material onto the road network via vehicular movements from the site.

REASON: To prevent and/or minimise potential environmental harm to the environment that may result from the construction and rehabilitation works.

18. Run-off and erosion and sediment controls must be installed onsite to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land by:-
- (a) diverting uncontaminated run-off around cleared or disturbed areas;
 - (b) erecting silt fencing in accordance with the requirements of Council's *Development Construction Specification* (Version 3.1, dated June 2011);
 - (c) preventing tracking of sediment by vehicles onto roads;
 - (d) stockpiling topsoil, excavated material, construction and landscaping supplies and debris within the site;
 - (e) where any material is stockpiled onsite erosion control and siltation fencing must be installed adjacent to the toe of the mound;
 - (f) removal or disturbance of vegetation and top soil is confined to within 3m of each area under construction; and
 - (g) the erosion and sediment control measures must be maintained in a good order until the excess excavation materials have been removed from the site.

REASON: To prevent soil erosion and water pollution.

19. In the event of any damage being caused to any existing Council infrastructure (such as road pavement, kerb, guttering, stormwater pit, footpath trees and/or footpath) during construction, the applicant must repair or reimburse Council for the full cost of restoration.

REASON: To prevent damage to Council's public footway area and require payment to Council where damage occurs.

20. The Subdivider shall adhere to the following guidelines with respect to the provision of services within the development.
- (a) Preliminary Design:- In planning the subdivision layout the Subdivider shall examine all utility master plans to ascertain the impact of the proposed development on each Utility Authority's existing and future infrastructure.
 - (b) Liaison with Utility Authorities:- The Subdivider shall confirm with each Utility Authority for water, sewer, electricity, gas and telecommunications services, of their individual requirements for the provision of servicing of the subdivision layout. Each utility shall be provided underground.
 - (i) Confirmation for the provision of installation of the following is required:
 - street lighting;
 - electricity reticulation;

- water reticulation;
 - sewer reticulation;
 - gas reticulation;
 - telecommunications reticulation; and
 - under road conduits.
- (ii) The Subdivider shall confirm design and construction phase requirements in order to enable an agreed development program to be established between each Utility Authority and the Subdivider prior to construction.
- (c) Construction Program: - The Subdivider shall liaise with each Utility Authority to confirm the following construction program:
- (i) Project scope;
- Construction sequences and timing;
 - Responsibilities of all parties involved;
 - Project contact officers and principal contractors;
 - Site servicing requirements (including construction documentation and commissioning requirements);
 - Standards, specification and procedures applicable to the project; and
 - Utility resource availability and response times.
- (d) Access by Others: - The Subdivider shall permit access to the site by each Utility Authority for the purpose of carrying out works additional to that required to be undertaken by the Subdivider.

REASON: To ensure services have been provided in accordance with Council and Utility Authority requirements.

21. Inspections must be performed by the Water and Sewer Authority (Queanbeyan City Council) when works reach the following stages:
- (a) immediately prior to connection of new sewer pipes to existing sewerage infrastructure;
 - (b) immediately prior to connection of new water pipes to the existing water reticulation; and
 - (c) immediately prior to the backfilling of sewer drainage trenches.

Council's Infrastructure Group must be given 24 hours notice of the need for these inspections.

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the works, and do not relieve the Developer from the requirements to provide a Project Quality Plan in accordance with Council's *Development Construction Specification* (Version 3.1, dated June 2011), Part CQS and a Work-as-Executed Certification Report in accordance with Council's *Development Construction Specification* (Version 3.1, dated June 2011), Part C101.

REASON: To ensure that hydraulic services are constructed in accordance with Council requirements.

22. Certification of the completed water reticulation (drinking water and non-drinking water) and sewerage system works within each subdivision stage and works as executed documentation for the subdivision stage must be included in a Project

Quality Plan and submitted to Council in accordance with Council's *Development Construction Specification* (Version 3.1, dated June 2011), Part C101.

REASON: To ensure that hydraulic services are constructed in accordance with Council requirements.

23. All construction and restoration work must be carried out strictly in accordance with the approved drawings and Council's *Development Construction Specification* (Version 3.1, dated June 2011).

The construction works shall be carried out, monitored and inspected in accordance with Specification CQS - *Quality System Requirements*.

REASON: To ensure construction and restoration work is in accordance with Council's requirements.

24. The Subdivider will be responsible for all public utilities and services in the area of work and as such must notify all relevant Authorities and bear all costs associated with any repairs and/or adjustments as those Authorities deem necessary.

REASON: To ensure compliance with Utility Authorities' requirements.

25. Lighting, fencing, traffic control advanced warning signs must be provided for the protection of works and for the safety and convenience of the public, in accordance with Council's *Development Construction Specification* (Version 3.1, dated June 2011). Traffic movement in both directions on public roads and vehicular access to private properties must be maintained at all times, during the currency of the works.

REASON: To ensure an adequate level of public safety and convenience during construction.

26. Land dedicated to Council for public recreation purposes is to meet the requirements of the *Googong Urban Development Local Planning Agreement*.

REASON: To ensure areas to be handed over to Council for public recreation are functional and in a reasonable state.

27. All fill imported on to the site must be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site must also be compatible with the existing soil characteristic for site drainage purposes.

Council may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site shall be validated by either one or both of the following methods during remediation works:

- Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material or the known past history of the site where the material is obtained; and/or
- Sampling and analysis of the fill material should be conducted in accordance with the EPA Sampling Design Guidelines (1995) to ensure that the material is not contaminated.

REASON: To ensure fill material is within acceptable standards.

28. Filling must be undertaken in accordance with the approved plans and in such a manner that the new drainage pattern does not environmentally affect adjoining properties. Those filled and/or regraded allotments must be compacted to 95%

maximum modified dry density. The applicant's Geotechnical Engineer must supervise the placement of fill material and certify with test results that the work has been carried out to level 1 responsibility in accordance with Appendix B of AS3798-1990.

REASON: To ensure satisfactory compaction of fill to standards.

29. Certification from a suitably qualified and practising Geotechnical Engineer must be submitted for each subdivision stage verifying that the works detailed and recommended in the geotechnical report have been undertaken under supervision, that satisfactory completion to standards has been achieved and that the assumptions relating to site conditions made in the report were validated during construction.

REASON: To ensure works are undertaken in accordance with geotechnical recommendations.

GENERAL

30. The development shall be in accordance with development application No. 186-2013 and any plans approved in response to Condition 1 of this consent and in accordance with the following plans except where those plans reference the following excluded lots:

- Proposed Stage 6D - Lots 89 – 97 and 99 – 107 inclusive.

Plans:

- Volume 02 – Subdivision Plans for approval prepared by Elton Consulting – October 2013, specifically including:
 - Civil Plans prepared by Browns Consulting Pty Ltd – Googong North DA-3, Neighbourhood 1A, Stage 6;
 - Landscape Plans prepared by Aecom – Googong Township, Stage 6, Googong North Landscape and Open Space; and
 - Subdivision Plans for Stages 6A, 6B, 6C and 6D prepared by Michael Roy Stapleton.

REASON: To ensure the development is completed in accordance with the approved plans.

31. In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

REASON: To ensure conditions of consent are adhered to.

32. Separate development consent of Council is required for the erection of any signage relating to land sales.

REASON: To satisfy the requirements of Council's Local Environmental Plan.

33. The applicant shall comply with the Googong Urban Development Local Planning Agreement.

REASON: To ensure satisfactory provision of services, amenities, works and monetary contributions for the development.

34. Asset Protection Zones (APZs) provided in accordance with Table 1 of the Bushfire Protection Assessment – Proposed Subdivision: Googong Neighbourhood 1A – DA Sections 2 & 3, prepared by Ecological Australia dated 18 September 2012.

REASON: To ensure compliance with the recommended Asset Protection Zones for the Stage 6 subdivision.

PRIOR TO RELEASE OF SUBDIVISION CERTIFICATE

35. A completed Subdivision Certificate application form accompanied by final plans of subdivision for each stage and a Schedule of Compliance detailing how each condition of consent has been complied with, together with the requisite processing fee, payment of contribution charges, any Council bonds and authorities from other service agencies that their requirements have been satisfied shall be submitted to Council for approval at each Stage. This application shall not be lodged until all consent conditions pertaining to the Stage have been complied with.

REASON: To comply with the *Environmental Planning and Assessment Act 1979*.

36. An application to obtain a Subdivision Certificate from Council must be accompanied by a final survey plan of subdivision and six copies including an electronic copy.

REASON: To comply with Section 109 *Environmental Planning and Assessment Act 1979*.

37. No subdivision certificate for any residential allotment approved by this consent shall be issued until such time as Council is satisfied that the Water Recycling Plant is capable of being commissioned for operation within three months of the date of issue of the subdivision certificate or such other time as agreed to by Council in writing.

REASON: To ensure that adequate provision is made for the servicing of residential allotments prior to the issue of a subdivision certificate and subsequent erection of buildings.

38. The General Terms of Approval issued by the NSW Office of Water on 20 December 2013 under Section 91 of the *Water Management Act 2000* for works within 40 metres of Montgomery's Creek, and attached to this consent as Schedule 1, must be complied with.

REASON: To ensure compliance with Section 91 of the *Water Management Act 2000*.

39. Submission to the Principal Certifying Authority of a statement prepared by a registered surveyor, stating that all water, sewer and stormwater pipelines constructed within proposed lots or other privately owned land are completely located within proposed easements indicated on the plan of subdivision or existing easements.

The statement must be submitted upon completion of the subdivision works and prior to the issue of the Subdivision Certificate for each subdivision stage.

REASON: To ensure works are completed in accordance with Council's requirements.

40. Submission of an application for a Final Compliance Certificate under Section 307 of the *Water Management Act 2000* for each subdivision stage prior to the issue of a Subdivision Certificate for that subdivision stage.

REASON: To ensure compliance with the statutory requirements of the *Environmental Planning and Assessment Act 1979*.

41. A geotechnical report must be submitted to Council detailing the classification of soil type generally found within each subdivision stage. A general classification for each lot within the subdivision stage must be provided and such classifications must be made by a Geotechnical Engineer in accordance with the provisions of AS 2870 “Residential Slabs and Footings”. The classification reports must be submitted to Council prior to the release of the Subdivision Certificate for that subdivision stage.

REASON: To ensure works are undertaken in accordance with geotechnical recommendations.

42. Written evidence from the relevant service authority or a suitably certified or accredited person that satisfactory arrangements have been made for the supply of reticulated electricity, telephone services and natural gas to each lot shall be submitted to Council. All services are to be provided underground.

REASON: To satisfy relevant utility authority requirements.

43. Provision of a separate sewer connection, stormwater drainage connection, water services (drinking water and non-drinking water), electricity supply, gas and communication service to each residential, school and open space allotment within the subdivision stage at the Subdivider’s expense.

REASON: To provide access to services for each allotment.

44. Maintenance of the completed subdivision works within a subdivision stage by the Subdivider at their own expense, for a period of six (6) months after the date of the issue of the Subdivision Certificate for that stage by Council.

The subdivider must lodge a cash bond with regard to such maintenance in an amount as calculated from fees set by Council’s Management Plan and current at the time of issue of each Subdivision Certificate.

In that period the applicant will be liable for any part of the work which fails to perform to the requirements specified in Council’s *Development Design Specification – Googong* (Version 1, dated June 2011), and *Development Construction Specification* (Version 3.1, dated June 2011) (or as would reasonably be expected under the design conditions).

The subdivider must provide Council with written authorisation, that in the event of any defect work not being rectified to the required standards specified and within the period specified, to enter upon the subject land and undertake such remedial work as necessary to comply with the required standards and to deduct the cost thereof from such Bond monies held by Council and to refund the balance, if any, to the subdivider.

REASON: To ensure works are completed in accordance with Council’s requirements.

45. Traffic Control Devices (TCD) for each subdivision stage that includes line-marking, sign-posting and Local Area Traffic Management works, as approved by the Local Traffic Committee, shall be installed prior to release of the Subdivision Certificate.

REASON: To provide traffic facilities.

46. Completion of all landscaping works in accordance with the Googong Township Landscape Management Plan (GTLMP) – Stage 6 prepared by AECOM Australia Pty Ltd. The works are to be implemented by a suitably experienced and qualified Landscape Management Contractor in accordance with the GTLMP.

REASON: To ensure satisfactory completion of landscape works.

47. The landscape works are to be monitored and maintained by the applicant in accordance with the *Googong Urban Development Local Planning Agreement*. Monitoring and reporting is to be carried out in accordance with the GTLMP.

During the maintenance period all landscape elements are to be managed such that they are resistant to erosion, with management strategies including:

- Planting areas are to be managed such that minimal exposed bare soil is visible.
- All surfaces are to be maintained such that they have a dense plant cover.
- Drainage lines are to be inspected regularly for signs of erosion.
- Where erosion occurs to landscape drainage line elements e.g. scour after a storm event, the damaged area is to be quickly stabilised and reinstated to the specified treatment.
- The drainage line formation is to remain as specified in the engineering and landscape drawings.

All landscape drainage line elements are to be managed for the removal of sediment with strategies to include:

- Regular inspection of bio-retention, wetland and pond sediment forebays.
- Sediment to be removed from:
 - bio-retention system forebays (bio-retention ponds and street bio-pods) when visible.
 - sedimentation basins when at 50% of capacity.
- Regular inspection of swales with prompt removal of sediment when observed.
- Sediment that passes through forebays and is deposited within the:
 - bio-retention systems and constructed wetlands is to be removed when observed.
 - pond is to be removed when it reduces the pond depth by 20%.
- Manage weed cover at no greater than 5%, and
- Manage planting associations for ongoing seeding and self perpetuation thereby increasingly minimising opportunities for weed colonisation.

REASON: To ensure landscape works are monitored and maintained.

48. Submission to Council for approval of street names for the proposed subdivision roads, with the names as approved to be indicated on the subdivision survey plan and provided on road name plates to be installed at the road intersections.

NOTE: Council has a list of approved names for subdivision roads which can be obtained by contacting Council's Sustainability and Better Living Section. Any other names will require a written submission to be lodged with Council detailing the origin of the name and the reasons for selection. Proposed names must also comply with the document *New South Wales Road Naming Policy* prepared by the Geographical Names Board and dated 24 October 2013.

REASON: To provide street addressing.

49. Prior to the issue of a Subdivision Certificate for Stage 6 or any part thereof, of the development, the applicant is to submit evidence of consultation with NSW Transport regarding the provision of public transport services to service the development.

Preparation of a '*Travel Access Guide*' (TAG) to be provided to all new residents to inform them of their transport options.

REASON: To satisfy the requirements of NSW Transport.

50. Pursuant to Section 88B of the *Conveyancing Act 1919* easements and restrictions as to use shall be created to achieve the following purposes:
- easements to drain water, including inter-allotment drainage;
 - easements to drain sewer;
 - easements for water supply;
 - easements for irrigation water supply
 - easements which Council may require to provide or maintain other services.

All easements specified above and contained in the subdivision must benefit Council as well as particular lots.

REASON: To ensure public utility services, access and restrictions are legalised over the land.

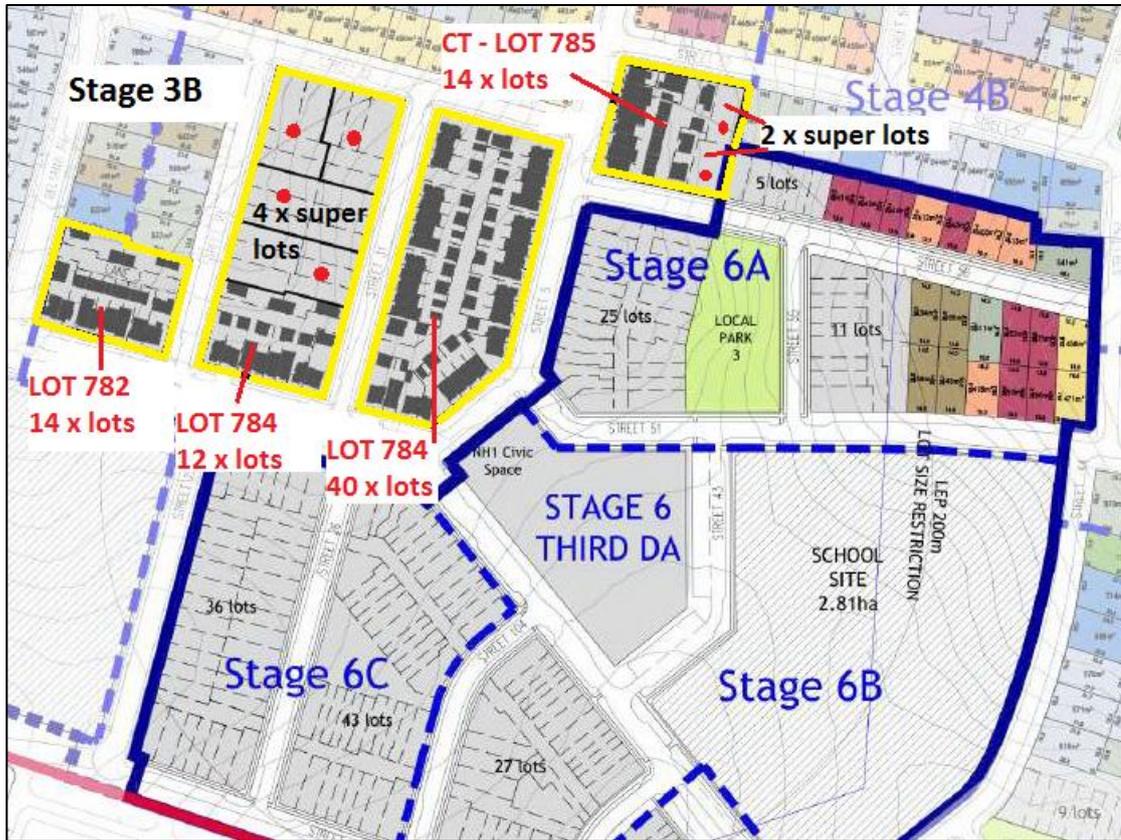
51. Dedication to Council, free of cost on the survey plans, all drainage reserves.

REASON: To permit Council to adequately manage drainage and utility services.

52. The subdivision roads for each subdivision stage are to be dedicated as public roads on the subdivision linen plan. Each subdivision stage must provide dedicated public road access to all lots within the subdivision stage.

REASON: To provide legal access to all lots within the subdivision.

ATTACHMENT A – STAGE 3B SUBDIVISION



ATTACHMENT B – STAGE 6D EXCLUDED LOTS

