

DATE OF DETERMINATION	28 September 2023
DATE OF PANEL DECISION	21 September 2023
DATE OF PANEL MEETING	31 August 2023
PANEL MEMBERS	Abigail Goldberg (Chair), Steve Murray, Brian Kirk, Moninder Singh
APOLOGIES	Chris Quilkey
DECLARATIONS OF INTEREST	David Ryan declares a conflict as one of his Gyde colleagues is doing work for them on other sites.

Papers circulated electronically on 14 September 2023.

MATTER DETERMINED

PPSSCC-432 – Blacktown – SPP-23-00037 at 1578 Windsor Road, Vineyard – The construction of 177 two-storey multi-dwelling units, 303 parking spaces, construction and dedication of a public road, internal private roads, stormwater and drainage works and landscaping

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings and the matters listed at item 8 in Schedule 1.

Development application

The panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The panel determined to refuse the application for the reasons outlined in the council assessment report, as replicated below.

- a. *The proposal will result in a negative environmental impact on the natural and built environment as the applicant has not demonstrated that they can achieve satisfactory permanent access, adequate stormwater disposal and waste management for this proposal. [Section 4.15(b) of the Environmental Planning and Assessment Act 1979].*
- b. *The proposal is likely to result in negative social and economic impacts as it does not provide sufficient planning information on establishing its relationship with the surrounding development. In terms of its connectivity to the adjoining development sits to the north. Also, Basin 1 (Temporary OSD and Bio Basin) is proposed to be constructed on part of land owned by Council for a drainage reserve to the west of this site. Council has not given owner's consent to lodge the DA or carry out development on its land. [Section 4.15(b) of the Environmental Planning and Assessment Act 1979].*
- c. *The proposal is likely to result in negative social and economic impacts as it does not provide sufficient information, as required by NSW Rural Fire Service, to demonstrate how access requirements can be achieved without amendments to the proposed road layout and arrangement of dwellings. [Section 4.15(b) of the Environmental Planning and Assessment Act 1979].*
- d. *The site is not suitable for the development as there is inadequate engineering, waste, site contamination, biodiversity, traffic, access and parking information provided to enable a complete assessment of the development's likely impacts. The applicant has not satisfied Council that the site*

can cater for this development. [Section 4.15(c) of the Environmental Planning and Assessment Act 1979].

- e. *The site is not suitable for the development as there is inadequate information provided to enable Transport for NSW a complete assessment of the development's likely impacts. The applicant has not satisfied Council that the site can cater for this development. [Section 4.15(c) of the Environmental Planning and Assessment Act 1979].*
- f. *The proposal will not achieve orderly development that is compatible with the site's context and surroundings and is therefore not in the public interest. [Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979].*
- g. *The proposal does not comply with Clause 4.6 of Chapter 4 of the Resilience and Hazard SEPP 2021 as there is insufficient information to confirm that the site is suitable or can be made suitable for this development. [Section 4.15(1)(a)(i) and S4.15(1)(b) of the Environmental Planning and Assessment Act 1979].*
- h. *Based on the above reasons, the proposal is inconsistent with the provisions of the relevant environmental planning instruments including the State Environmental Planning Policy (Precincts - Central River City) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 Draft State Environmental Planning Policy (Environment), and Draft State Environmental Planning Policy (Remediation of Land). [Section 4.15(1)(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979].*

The Panel is cognisant that the BASIX certificate submitted by the Applicant is dated more than three months before the day on which the development application was lodged; and as the requirement of the Regulations has not been met, the application may be considered as not properly made. Also, notwithstanding the date of the certificate, the Panel concurs with Council's assessment that matters specified on the certificate, such as: rainwater tanks, air conditioning and the like; are required for each dwelling, but no details have been provided on the architectural plans.

In addition, the Panel notes that the information submitted by the Applicant on the status of site contamination was prepared on 28 June 2018. Given the age of the document, the Panel concurs with Council that the accuracy of this information cannot be relied upon. Accordingly, the Panel is not satisfied that the site is suitable for the proposed development and the requirements of clause 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021 have not been met, and the Panel cannot grant development consent.

CONSIDERATION OF COMMUNITY VIEWS





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

- Disruption to Vineyard Public School from the temporary construction noise and vibration.
- The lack of information in the proposal for construction vehicle management. The submission recommended inclusion of management controls to ensure:
 - Avoidance of construction vehicle queuing that will cause blocking of pedestrian and vehicular access into Vineyard Public School on Windsor Road and Bandon Road.
 - Construction workers are encouraged to use public transport and not park on the Bandon Road frontage of Vineyard Public School.
 - Construction vehicles, including delivery vehicles, do not enter and exit the proposed work site during drop-off and pick-up periods. It proposed the development should be conditioned such that construction and waste collection vehicles, including delivery vehicles, are not entering and exiting development sites 1 hour before AM school bell times nor 1 hour after PM school bell times on school days.
- The locations of work zones, i.e. they proposed that the locations should not compromise pedestrian, cyclist and vehicular access to the school's drop-off and pickup spaces.

School Infrastructure NSW also commented that the proposal should also fill the gaps in the active transport links from the development to school, bus stops, train station and commercial premises to

encourage residents and school students to walk and cycle safely to the proposed development. This can be achieved through the construction of new or upgraded shared user paths and pedestrian crossing facilities.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
Abigail Goldberg (Chair) 	Steve Murray 
Brian Kirk 	Moninder Singh 

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-432 – Blacktown – SPP-23-00037
2	PROPOSED DEVELOPMENT	The construction of 177 two-storey multi-dwelling units, 303 parking spaces, construction and dedication of a public road, internal private roads, stormwater and drainage works and landscaping
3	STREET ADDRESS	1578 Windsor Road, Vineyard
4	APPLICANT/OWNER	Applicant: Universal Property Group PTY Limited (UPG)/Bathla Owner: Chih-Chang Yen, Nu-Chauan Huang, Tammy Caruso, Mary Georas, Charlotte Torno
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Precincts – Central River City) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Blacktown Growth Centres Precincts Development Control Plan 2010 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 5 September 2023 Written submissions during public exhibition: 1 Total number of unique submissions received by way of objection: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Final briefing to discuss council's recommendation: 31 August 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Abigail Goldberg (Chair), Steve Murray, Brian Kirk, Chris Quilkey, Moninder Singh <u>Council assessment staff</u>: Luma Araim - Senior Town Planner – Projects, Allan Middlemiss - Coordinator Planning Assessment, Joanna Niedbala – Clerical Officer. Applicant: declined invitation to attend
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not applicable