

DATE OF DETERMINATION	19 September 2022
DATE OF PANEL DECISION	19 September 2022
DATE OF PANEL MEETING	7 September 2022
PANEL MEMBERS	Chris Wilson (Acting Chair), Renata Brooks, Tim Fletcher, Cr Bryce Wilson
APOLOGIES	Cr John Preston
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 31 August 2022.

MATTER DETERMINED

PPSSTH-116 – Queanbeyan Palerang – DA.2021.1549 at 36 Googong Rd Googong – Subdivision of land (Googong Neighbourhoods 3, 4 & 5) into 1398 Torrens title residential lots, 14 super lots for future residential development, 5 Neighbourhood Centre lots, boundary adjustment, all associated subdivision construction works, roads, tree removal, signage and landscaping and relocation of Shearing Shed. (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Queanbeyan Local Environmental Plan 2012 (LEP), which has demonstrated that:

- a) compliance with cl. 4.1 (Minimum Subdivision Lot Size) was unreasonable or unnecessary in the circumstances; and
- b) there was sufficient environmental planning grounds to justify contravening the development standard

the Panel was satisfied that:

- a) the applicant's written request adequately addressed the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.1 (Minimum Subdivision Lot Size) of the LEP and the objectives for development in the R1 General Residential Zone; and
- c) the concurrence of the Secretary was assumed.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the recommendations in the Council's Assessment Report (AR) and recommended draft conditions of consent (draft conditions). Approval however was contingent on Council addressing several residual issues in a Supplementary Report (SR) to be provided within 7 days of the determination meeting.

Council has provided the SR and the Panel is satisfied that all outstanding matters have been satisfactorily resolved through additional information and additional and/or amended conditions of consent. The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variation to the minimum subdivision lot size standard and approve the application for the reasons outlined in the Council's AR and SR.

Matters the Panel sought clarification on are discussed in matters 1-5 below.

1) The final form of the Intersection of Bunyip Drive and Old Cooma Road.

The Panel sought clarification regarding the type of intersection for which consent was being sought noting inconsistencies between notated plans and draft recommended conditions. Whilst it is anticipated that a signalised intersection will ultimately be constructed (currently the subject of discussion), consent is being sought for a seagull intersection which has been endorsed by Transport for NSW.

2) Impact of road traffic noise on proposed lots adjoining Old Cooma Road

The Panel was concerned that 4 lots within Neighbourhood 3 immediately east of Old Cooma Road were unacceptably impacted by the 60dB LAeq (15hr) noise contour and further that it was unacceptable to expect purchasers to have to mitigate these anticipated impacts. The Panel considered that given the size of the subdivision, there was an opportunity to avoid these impacts through layout design. Consequently, the Panel sought that these 4 lots be removed from the consent.

The Panel also sought that those lots affected by the 50-60dB LAeq (15hr) noise contour be constructed to meet the requirements of Category One Construction and that dwellings situated on these lots be orientated to minimise road noise.

3) Retention of the values of an Aboriginal Heritage Item

The Panel sought clarification as to whether the values of a damaged tree with Aboriginal significance (currently the subject of an investigation) would be retained. The Applicant confirmed that regardless of the outcome of the investigation the values would be retained.

4) Asset protection and land use zoning

The Panel sought confirmation that all APZs were located outside areas identified as conservation zones. It was advised that temporary APZs are required as the estate develops and that some of these temporary APZs are located on land zoned C2 and that the vegetation management plan (VMP) attached to the approved Biodiversity Certification Assessment Report allows for fuel load reduction in the C2 zone. The VMP is also attached to a Biodiversity Certification Agreement approved by the Minister for Planning and Environment. It was further advised that all permanent APZs would be located on land zoned R1 to R5.

5) Response to submissions.

The Panel questioned several changes to the development that were not reflected in current plans being:

- the deletion of the neighbourhood centre lot (future childcare centre) to be replaced by open space; and
- confirmation of the increased open space area south of Montgomery Rise.

6) Reconciliation of the Engineering, General Arrangements and Subdivision Plans.

Notwithstanding 5 above, the Panel considers it prudent that the consent includes a condition requiring the Applicant to ensure that all engineering plans are consistent with the (now amended) general arrangements (Plan 308534CA005 Revision B) and subdivision plans.

CONDITIONS

The Development Application was approved subject to the conditions in the Council AR and SR with the following inclusions/amendments.

As identified in the Council's SR:

- Condition 2 has been included to note that the consent does not apply to Lots 32AA, 32AB, 38AA and 38AB
- Condition 58 has been amended to ensure that allotments identified as noise affected meet Category One Construction requirements, and further, for those lots to be orientated to mitigate noise
- Condition 68 has been amended to require covenants on the land for those allotments affected by noise requiring that future building designs need to meet the specified Guideline/s.
- Condition 20 has been included (formerly 19) to ensure the heritage values associated with the 'scarred tree' referred to as GNH3-5 ST01 are retained
- Condition 2 (d) now 3(c) has been amended to provide clarity of the intended outcome
- Condition 38 now condition 39 has been updated to correctly refer to NSW Heritage
- Condition 78 has been deleted and Condition 68 amended to include the requirement for a covenant (as opposed to a condition) that dwellings on lots present to the primary street frontage, not the road from which access is gained

In its deliberations, the Panel identified the need for an additional condition to ensure consistency between the relevant engineering, general arrangements, and subdivision plans.





Consequently, Council is directed to amend Condition 3 to include the requirement for the Applicant to ensure that all engineering plans are consistent with the amended general arrangements (Plan 308534CA005 Revision B) and subdivision plans.

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 as identified in the Council's AR included:

- Vision for Googong
- Location of a future childcare centre and potential noise impact
- Inconsistencies of plans
- Views from the Montgomery Rise area
- Traffic impacts, volumes and parking
- General noise within the estate.

The Panel considers that concerns raised by the community have been adequately addressed in the Council's Assessment and Supplementary Reports, and the conditions of consent. All preconditions for the grant of consent have been met. Council undertook a comprehensive assessment of the development application in accordance with Section 4.15 (1) of the *Environmental Planning and Assessment Act, 1979* and the development is considered to be in the public interest.

PANEL MEMBERS	
 Chris Wilson (Acting Chair)	 Renata Brooks
 Tim Fletcher	 Cr Bryce Wilson

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-116 – Queanbeyan Palerang – DA.2021.1549
2	PROPOSED DEVELOPMENT	Subdivision of land (Googong Neighbourhoods 3, 4 & 5) into 1398 Torrens title residential lots, 14 super lots for future residential development, 5 Neighbourhood Centre lots, boundary adjustment, all associated subdivision construction works, roads, tree removal, signage and landscaping and relocation of Shearing Shed.
3	STREET ADDRESS	36 Googong Rd, Googong (Part of: Lot 42 DP 754881, Lot 776 DP 1230282, Lot 2 DP 1231713, Lot 3 DP 1149329, Lot 10 DP 754881, Lot 1263 of DP 1283369, Lot 7 DP 1246784, Lot 996 of DP1276892, Lot 1605 DP 1266000, Lot 12 DP 1266001, Lot 13 DP 1266001)
4	APPLICANT/OWNER	Googong Township Pty Ltd
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 (Planning Systems) 2021 State Environmental Planning Policy (Resilience & Hazards) 2021 State Environmental Planning Policy (Transport & Infrastructure) 2021 State Environmental Planning Policy (Biodiversity & Conservation) 2021 State Environmental Planning Policy (Industry & Employment) 2021 Queanbeyan Local Environmental Plan 2012 Draft environmental planning instruments: Nil <ul style="list-style-type: none"> Draft Queanbeyan Palerang Local Environmental Plan 2020 Development control plans: <ul style="list-style-type: none"> Googong Development Control Plan 2010 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: 25 August 2022 Clause 4.6 variation <ul style="list-style-type: none"> Clause 4.1 Minimum Subdivision Lot Size, QLEP 2012

		<ul style="list-style-type: none"> • Council supplementary report: 15 September 2022 • Written submissions during public exhibition: 4 (including petition with 60 signatures) • Total number of unique submissions received by way of objection: 4
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection & Briefing: 5 April 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Acting Chair), Renata Brooks, Tim Fletcher ○ <u>Council assessment staff</u>: Michael Thompson, Graeme Harlor, Jacinta Tonner, Alex Glouftsis, Johan DuToit ○ <u>DPE staff</u>: Amanda Moylan • Final briefing to discuss council's recommendation: 7 September 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Acting Chair), Renata Brooks, Tim Fletcher, Bryce Wilson ○ <u>Council assessment staff</u>: Luceille Yeomans, Michael Thompson, Jacinta Tonner, Graeme Harlor, Shannon Edwards ○ <u>Applicant representatives</u>: Katherine Hurley, Mitchell Alexander, Tim Corby, Robert Bennett ○ <u>DPE staff</u>: Sung Pak, Tracey Gillett
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report as amended by the Council Supplementary Report.