



DATE OF DETERMINATION	Tuesday, 14 June 2022
DATE OF PANEL DECISION	Friday, 10 June 2022
DATE OF PANEL MEETING	Monday, 6 June 2022
PANEL MEMBERS	Renata Brooks (Acting Chair), Tim Fletcher, Susan Budd, Michael Mantei and Stephen Leathley
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 6 June 2022, opened at 11:07am and closed at 12:23pm.

MATTER DETERMINED

PPSSTH-7 – Wingecarribee – DA20/0227 at 141 Yarrowa Road and 32 Lovelle Street, Moss Vale – Chelsea Gardens and Coomungie Lands (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 Wingecarribee Local Environmental Plan 2010 (LEP), that has demonstrated that:

- a) compliance with cl. 4.1 (minimum subdivision lot size) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses 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 RE1 zone; and
- c) the concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve 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 uphold the Clause 4.6 variation to minimum subdivision lot size; and approve the application for the reasons outlined in the Council Assessment Report, Council Supplementary Assessment report and Independent Report to the SRPP (KJ Planning 31 May 2022) ("the independent planning report"), noting in particular:

- Adequate arrangements have been made for the extension of water and sewer services to the site for the first and subsequent stages of the development.

- Appropriate conditions have been applied to ensure that the details of the interim package treatment plant and proposed irrigation area are evaluated and resolved through the Water Industry Competition Act (WICA) licensing process prior to the subdivision progressing, ensuring that the effluent from Stage 1 of the subdivision will be appropriately treated, stored and disposed of with minimal environmental impact and that subsequent stages will be connected to an upgraded Moss Vale Sewerage Treatment Plant.
- Traffic impacts have been appropriately addressed and the proposal is satisfactory having regard to the internal road network and connectivity to and impacts on the local road system. The first stage of the development requires a new roundabout at the intersection of Yarrowa Rd/Spencer St/Darran Rd as well as the construction of access roads and roundabouts into the site. Revised modelling which responds to recommendations in the independent audit prepared by Transport Modellers Alliance in February 2021 will be required prior to the next stage of the subdivision to ensure that any necessary improvements to the local road network are undertaken. In addition a condition will require a new road to be constructed linking the north east corner of the site to Fitzroy Rd/Illawarra Hwy prior to the issue of a subdivision certificate for the 500th lot.
- The subdivision is compatible with the surrounding development and is a logical extension to the urban area of Moss Vale.
- The design of the subdivision is generally consistent with the Moss Vale Township Development Control Plan and is permissible within the relevant LEP zones, with consent.
- Site constraints, including flooding and bushfire risk, have been appropriately addressed by the subdivision design and conditions of consent.

CONDITIONS

The Development Application was approved subject to the conditions in the Independent Planning Report with the following amendments:

A7 VISUAL IMPACT ASSESSMENT – SPECIAL CHARACTER AREA - *to clarify the relationship between the concept plan and details to be considered in subsequent development applications for this area*

A visual impact assessment shall accompany any future development applications within the special character areas to ensure that all elements of the subdivision design including, but not limited to, street layout and design, lot layout and design, landscaping and infrastructure provision, create a future residential neighbourhood within a landscape setting consistent with the outcomes of this concept approval in respect to these portions of the site.

A10 BUFFER TO GOLF COURSE – *to ensure specialist advice informs measures to be taken to minimise conflict between golf course operations and residential development*

Future development applications for subdivision within Stages 3b, 4 and 6b on the site shall demonstrate the following:

- (a) The proposed residential lots adjoining the golf course and marked by the orange line in Figure 5 of the DCP within the southern portion of proposed Stage 4 must provide a landscaped buffer and fencing to Council's satisfaction. This may require a restriction on the Title of residential lots in relation to this landscaping / fencing; and will require consideration of the advisory and consultation requirements in part (d) of this condition.
- (b) Perimeter roads must form the boundary between the site and the adjoining golf course on the area marked by the orange line in Figure 5 of the DCP within proposed Stage 3b and the northern section of Stage 4;

- (c) Perimeter roads and open space areas must form the boundary adjoining the golf course and marked by the orange line in Figure 5 of the DCP within proposed Stage 6;
- (d) A Golf Course architect who is a member of, or recognised by an industry relevant organisation, such as the Society of Australian Golf Course Architects, is to provide advice in respect to the subdivision and landscape design to minimise conflict between golf course operations and residential development within these stages. This process is to also include consultation with the Moss Vale Golf Club.

Reason: To minimise landuse conflict between the existing golf course and new residential development.

A11 WATER AND SEWER MODELLING – to appropriately place requirements in a condition rather than a note.

The developer shall revise and update the water and sewer modelling provided in the Water and Sewer Servicing Strategies listed in Condition A2. This further modelling will be required prior to the issue of a Subdivision Works Certificate for each future stage of the subdivision (as part of future Development Applications for the site with one modelling exercise per stage) to ascertain the scope of the required upgrades to be delivered under each stage of the subdivision works.

Modelling shall be in accordance with Council's Water and Sewer Modelling Fact Sheet for each development stage and incorporate the relevant recommendations made within the reports into the engineering designs submitted under Section 68 of the Local Government Act, 1993.

Reason: To ensure the proposed development does not impact on Council's ability to provide minimum level of service to water and sewer customers.

A12 CONNECTION TO WINGECARRIBEE SHIRE COUNCIL SEWERAGE NETWORK (LONG-TERM WASTEWATER SERVICING) – to clarify that development applications beyond Stage 1 can be made and considered but not commenced until connection to the Moss Vale Sewage Treatment Plant is available.

All future development stages beyond Stage 1 are to be connected to the Moss Vale Sewage Treatment Plant.

A15 VEGETATION MANAGEMENT PLAN – to specify the areas where a Vegetation Management Plan is to be provided

Future development applications shall be accompanied by a Vegetation Management Plan ('VMP') prepared for the riparian areas on the site within Stages 1 and 2 (as outlined in the approved Flora and Fauna Assessment prepared by EcoPlanning dated 8 October 2018) and to include the area within the unmade Shelley Road/Fitzroy Road reserve to the northeast of the site (Stages 4 & 5) in the vicinity of the proposed new road if deemed to be waterfront land.

The VMP is to be prepared in accordance with the 'Controlled activities on waterfront land – Guidelines for Vegetation Management Plans on Waterfront Land' (Department of Primary Industries (Office of Water) July 2012).

The VMP shall identify the riparian corridor widths, vegetation species (to comprise species characteristic of the Southern Highlands Shale Woodlands Community) and planting densities and is to provide for the restoration of aquatic and riparian vegetation and habitat on the site.

The VMP shall also accompany any/all future Controlled Activity Approval applications under the Water Management Act 2000 to the Natural Resources Access Regulator ('NRAR').

A21 ABORIGINAL CULTURAL HERITAGE - FUTURE DEVELOPMENT APPLICATIONS – to ensure appropriate engagement with members of the local Aboriginal community

The following matters must be addressed in future development applications lodged for the site:

- An Aboriginal cultural heritage management plan for the conservation area must be prepared in consultation with the Registered Aboriginal Parties ('RAP').
- Justification for the extent of test excavation within the relevant site area.
- Outcomes of ongoing consultation with the RAP. The applicant must continue to update the RAP during the development application process, with the AHIP applications to demonstrate continuous and ongoing consultation (over 6 months without consultation may not constitute continuous consultation).
- Updated review of the regional and local archaeological record if a substantial period elapses between the current reporting and future development applications.
- Undertake consultation with the local Aboriginal community and adopt a Design with Country approach to street naming and design of open space areas in accordance with the NSW State governments Connecting with Country Draft Framework.

Reason: To ensure Aboriginal Cultural Heritage is appropriately managed and the local Aboriginal community is engaged in accordance with design with Country principles.

A24 REVIEW OF TRAFFIC MODEL – *minor change to language to clarify meaning.*

A28 BUSHFIRE – *Compliance with the Rural Fire Service concurrence conditions is required for the concept plan and the terms of these conditions have been added to the conditions of approval for the concept plan. As a result, condition A28 is no longer required.*

A31 LAND CONTAMINATION – *to specify areas for which a detailed site investigation is to be undertaken.*

A detailed site investigation shall be undertaken for future stages 2, 4, 5, 6a and 6b of the subdivision, which contain areas of concern identified in the preliminary site investigation, Phase 1 Environmental Assessment prepared by Harvest Scientific Services dated 22 February 2019. The detailed site investigation for Stage 5 shall also address potential contamination arising from the irrigation associated with the interim wastewater plant.

A? COMMUNITY CONSULTATION (NEW CONDITION) – *to require a formal process for community engagement, informed by expert advice*

A Community Consultation framework is to be established to ensure that the community and relevant stakeholders are kept informed on the status of the development under this approval, and can provide feedback on key issues that may arise during the development and that can be addressed in future stages of the development. An independent Community Consultation practitioner is to be engaged for this process with a report to accompany all future development applications outlining issues raised, and the specific response provided.

Reason: To ensure that the community and relevant stakeholders are engaged with by the proponent to identify and address issues of relevance to them during the design phase of future stages of the development.

B9 WATER INDUSTRY COMPETITION ACT 2006 APPROVALS – *to reflect that the Independent Pricing and Regulatory Tribunal will determine which licences are required.*

Prior to the issue of a Subdivision Works Certificate, an application under the Water Industry Competition Act 2006 shall be made to, and issued by, the Independent Pricing and Regulatory Tribunal, for the relevant licences for the construction and operation of the Interim Wastewater Treatment System and provision of sewerage services to Stage 1 of the development:

- (a) Reason: A requirement under the provisions of the Water Industry Competition Act 2006.

B61 SECTION 88B INSTRUMENT – to confirm responsibility for maintenance of sewer line infrastructure on private land

The original plans of subdivision shall be accompanied by a Section 88B Instrument under the Conveyancing Act 1919, which requires:

- (a) Access to future dwellings on the lots accessing off Boulevards shall be restricted to locations identified on the Subdivision Works Certificate approved plans.
- (b) No solid metal “colorbond” style boundary fencing so as to respect the character of the locality.
- (c) to ensure ongoing protection from the impact of bush fire, the entirety of the proposed residential lots shall be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bushfire Protection 2019 in perpetuity.
- (d) An Instrument for the provision for:
- (i) On-going management/maintenance of the right of carriageway including clear details of obligations/responsibilities of the affected parties;
 - (ii) Effective (legal) provision for access by all emergency and other essential service organisations over the private carriageway; and
 - (iii) Maintenance and repair of the private sewer line infrastructure within individual residential lots (within stage1), shall be provided by the subject applicant, until such time as the ownership of this infrastructure is transferred to Wingecarribee Council, where upon this maintenance responsibility shall be undertaken by Council

The draft Section 88B Instrument shall submit to Council for approval prior to issue of the Subdivision Certificate.

- (e) An Instrument for the provision of a site classification provided by the geotechnical engineer in accordance with the current version of Australian Standard (AS2870) Residential Slabs and Footings for each residential allotment in the subdivision.

Full details, including draft Section 88B Instrument, shall be submitted for the approval of Council with the application for a Subdivision Certificate.

WATER NSW CONCURRENCE CONDITIONS – updated to reflect the most recent version received from Water NSW including references to revised plans.

Amended conditions are attached to this consent.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel at this meeting and the public meeting held on 4 August 2021. The Panel notes that issues of concern included:






- Character/visual impact
- Flora and fauna impacts
- Traffic impacts and road access, including adequacy of traffic modelling
- Light spill impacts
- Heat generation impacts
- Rural/residential interface impacts
- Public consultation

- Infrastructure/employment impacts including access to educational facilities
- Flooding and drainage
- Name of subdivision
- Pedestrian/cycle link to Moss Vale
- Urban design, including density
- Staging of delivery of infrastructure
- Sewerage arrangements

The Panel considers that concerns raised by the community have been adequately addressed in the Council Assessment Report, supplementary report and KJ Planning independent report and that no new issues requiring assessment were raised during the public meetings. The Panel notes that in addressing these issues:

- The Panel was advised by Council that public consultation on the application was undertaken in accordance with Council’s Notification of Development Proposal’s Policy. The Panel also held two public meetings and heard from members of the community. A condition will require a community engagement framework to be developed to ensure that the community and relevant stakeholders are engaged by the proponent to identify and address issues of relevance to them during the design phase of future stages of the development.
- Decentralised Water Australia was commissioned to undertake an independent peer review and provide advice on whether water and sewerage infrastructure can be feasibly and logically implemented in a timely fashion to adequately service the proposal. The report’s recommendations have informed conditions of consent.
- Amendments to the concept plan and conditions of consent will ensure:
 - that boundaries of the site and the interface to rural areas will be appropriately managed
 - that residential lots are limited to 1073 consistent with the lot yield plan, noting that the Panel did not consider that the capacity for the site to provide 1200 lots while meeting LEP controls and addressing site constraints and had been demonstrated.
 - That DCP requirements for the special character area are capable of being met.
- Conditions will require development of a Walking and Cycling Strategy Plan at the next stage of the subdivision and landscaping and public infrastructure will be delivered in conjunction with relevant residential stages.

The Panel also notes that some issues raised by submitters relate to the strategic planning context or to details which may be the subject of future development applications on the site. These processes should provide further opportunities for community input.

PANEL MEMBERS	
 Renata Brooks (Acting Chair)	 Tim Fletcher
 Susan Budd	 Michael Mantei
 Stephen Leathley	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-7 – WINGECARRIBEE – DA 20/0227
2	PROPOSED DEVELOPMENT	Proposed Stage 1 subdivision (177 lots) being 173 residential lots, 2 reserve lots, 1 residue business lot, and 1 residue lot, and proposed concept subdivision including approximately 1200 residential lots
3	STREET ADDRESS	Lot 3 DP 706194 being “Coomungie” 141 Yarrowa Road Moss Vale, and Lot 12 DP 866036 being “Chelsea Gardens” 32 Lovelle Street, Moss Vale
4	APPLICANT/OWNER	Applicant: Prime Moss Vale Pty Ltd c/o Urbis Owner: Prime Moss Vale Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value > \$30M
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ State Environmental Planning Policy (Koala Habitat Protection) 2021 ○ Wingecarribee Local Environmental Plan 2010 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Moss Vale Township Development Control Plan • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</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"> • Verbal submissions at the public meeting: Monday, 6 June 2022 <ul style="list-style-type: none"> ○ Alan Hunt, Geraldine Turner and James McAlpine – Stop Mossvale Sprawl, Brock Sykes and Rachel Russell ○ Council assessment officer – Nancy Sample ○ On behalf of the applicant – Chris Patterson, Jim Mahoney - True Water Australia, Paul Hume – Premise, Ivo Pais – Cardno, ○ Independent planning consultant: Kim Johnson – KJ Planning • Applicant written submission to public meeting 6 June 2022 received: 3 June 2022 • Ben Asquith - Decentralised Water - Written comments to SRPP 18.05.2022 received: 27 May 2022 • Letter on behalf of applicant supporting Wastewater Methodology – Harris Environmental 24 May 2022 received: 27 May 2022 • Additional information received: 18 May 2022 • Additional information received: 28 April 2022 • Council assessment report: 21 July 2021 • Council supplementary assessment report 13 October 2021 • Independent report to the Southern Regional Planning Panel 31 May 2022 • Water and sewer expert advice for subdivision DA – final report 27 April 2022 – Decentralised Water Australia • Clause 4.6 variation request:

		<ul style="list-style-type: none"> • Written submissions during public exhibition: 7 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Robert Mann ○ Council assessment officer – Peter Malloy ○ On behalf of the applicant – Paul Hume
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: 5 December 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Renata Brooks • Site inspection: 30 July 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Tim Fletcher • Final briefing to discuss council’s recommendation: 13 August 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Renata Brooks (Chair), Tim Fletcher, Susan Budd ○ <u>Council assessment staff</u>: Peter Malloy, Nancy Sample, Tula Bhattarai, Naif Ahmed, Matthew Theris ○ <u>DPIE staff</u>: Sung Pak, Michelle Burns • Briefing: 14 September 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Renata Brooks (Acting Chair), Tim Fletcher and Susan Budd ○ <u>Council assessment staff</u>: Peter Malloy and Nancy Sample ○ <u>DPE</u>: Amanda Moylan, Sung Pak and Michelle Burns • Briefing: 8 October 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Renata Brooks (Acting Chair), Tim Fletcher and Susan Budd ○ <u>Council assessment staff</u>: Malcolm Ryan and Nancy Sample ○ <u>DPE</u>: Jane Gibbs, Amanda Moylan, Sung Pak and Michelle Burns • Site inspection: 9 November 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Tim Fletcher and Susan Budd ○ <u>Council assessment staff</u>: Nancy Sample and Peter Malloy ○ <u>DPE</u>: Amanda Moylan, Sung Pak and Kim Johnston • Briefing: 7 April 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Renata Brooks (Acting Chair), Tim Fletcher, Susan Budd, Michael Mantei ○ ○ <u>Independent Consultants</u>: Kim Johnston – KJ Planning. Ben Asquith Decentralised Water Australia • Briefing: 21 April 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Renata Brooks (Acting Chair), Tim Fletcher and Susan Budd ○ <u>Independent Planning Consultant</u>: Kim Johnston – KJ Planning ○ <u>DPE</u>: Jane Gibbs and Sung Pak • Applicant/Council briefing: 28 April 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Renata Brooks (Acting Chair), Tim Fletcher, Susan Budd, Michael Mantei and Stephen Leathley ○ <u>Applicant representatives</u>: Adrian Liaw – Head of Development Aoyuan, Paul Singer – Project Director Aoyuan, Terry Hams – Principal Civil Engineer, Michael Gordon – Technical Consultant, Angela Villate – Aoyuan Group, Paul Hume - Premise <u>Note</u>: Applicant briefing was requested to provide the Panel with clarification and to respond to issues ○ <u>Council representatives</u>: Nancy Sample

		<ul style="list-style-type: none"> ○ <u>Independent Planning Consultants</u>: Kim Johnston – KJ Planning, Ben Asquith – Decentralised Water Australia and Tim Bell ● Site inspection: 4 May 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Stephen Leathley ● Briefing: 18 May 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Renata Brooks (Acting Chair), Tim Fletcher and Susan Budd, Michael Mantei and Stephen Leathley ○ <u>Independent Planning Consultant</u>: Kim Johnston – KJ Planning ○ <u>DPE</u>: Jane Gibbs and Sung Pak ● Final briefing to discuss council’s recommendation: 6 June 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Renata Brooks (Acting Chair), Tim Fletcher, Susan Budd, Michael Mantei and Stephen Leathley ○ <u>DPE representatives</u>: Amanda Moylan, Jane Gibbs and Mellissa Felipe ○ <u>Council representatives</u>: Nancy Sample and Geoff King ○ <u>Independent Planning Consultants</u>: Kim Johnston – KJ Planning, Ben Asquith – Decentralised Water Solution
9	COUNCIL RECOMMENDATION	Approved subject to conditions
10	DRAFT CONDITIONS	Attached to the independent report to the SRPP prepared by KJ Planning 31 May 2022.