

<b>DATE OF DETERMINATION</b>	30 September 2024
<b>DATE OF PANEL DECISION</b>	30 September 2024
<b>DATE OF CIRCULATION OF PAPERS</b>	9 September 2024
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Louise Camenzuli, David Kitto, Blair Briggs
<b>APOLOGIES</b>	Matt Gould
<b>DECLARATIONS OF INTEREST</b>	Nil

#### **MATTER DETERMINED**

**PPSSWC-301 – Wollondilly – DA/2022/1279/1** – 195 Fairway Drive, Wilton - Staged residential subdivision consisting of 318 residential lots, 4 superlots, 6 residue lots and associated works (Stages 2 & 3).

#### **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 listed at item 8 in Schedule 1.

#### **Application to vary a development standard**

The Panel's reported reasons for the decision to defer determination of the DA on 26 March 2024 include the Panel's reasons for concluding that the objection made under 'Clause 4.26 Exceptions to development standards' of 'Appendix 8 North Wilton Precinct Plan' to State Environmental Planning Policy (Precincts—Western Parkland City) 2021 (the WPC SEPP) to the strict application of Clause 4.3A Residential density in that North Wilton Precinct Plan should be upheld.

For those reasons, the Panel is satisfied that the written objection demonstrates that:

- compliance with the development standard for height contained in cl. 4.3A of the North Wilton Precinct Plan is unreasonable or unnecessary in the circumstances of this DA; and
- there are sufficient environmental planning grounds to justify contravening the development standard.
- the matters required to be addressed under cl 5.21(3) of the SEPP have been sufficiently discussed;
- the development is in the public interest because it is consistent with the objectives of cl. 4.3A (development standard) of the North Wilton Precinct Plan and the objectives for development in the UD Urban Development zone; and
- the concurrence of the Secretary has been assumed.

The Panel was so satisfied for the reasons set out in the Council assessment report of 28 February 2024, and taking into account the material made available to the Panel since.

#### **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 building height; and approve the application in substance for the reasons outlined in the Council Assessment Report, noting the matters raised in the discussion of the conditions below.

Specific matters included in the Panel's determination to accept the Council's reasoning as to why the development proposed in the DA is in the public interest and ought to be approved having regard to the considerations identified in section 4.15 of the EP&A Act 1979 (as first discussed in the Panel's reported reasons for the decision to defer determination of the DA on 26 March 2024) include:

- a) The development will comply sufficiently with the Neighbourhood Plan, Wilton Growth Area Development Control Plan 2021 (WGA DCP 2021), the WPC SEPP and Wilton 2040: A Plan for the Wilton Growth Area (The applicable Land Use and Infrastructure Implementation Plan (LUIIP)).
- b) Consideration of Council's Design and Construction Specifications for WSUD, the provisions of the WGA DCP 2021 in relation to road widths, as well as cycle and pedestrian paths provided is reported to be resolved.
- c) The issue of bushfire risk has been sufficiently considered. The development has been found to be acceptable subject to the imposition of conditions including those recommended by the RFS through its General Terms of Approval issued with reference to section 100B of the Rural Fires Act 1997 in response to Council's referral, including the requirement for the provision of asset protection zones.
- d) The Stage 1 DA included conditions for vegetation removal and earthworks for this part of the development. Those conditions required remediation of contamination at the site which has been completed and validated.
- e) Acoustic concerns in relation to the proposed on-ramp have been satisfactorily addressed with the provision of an expert acoustic report which examines those impacts in the context of the existing highway noise which is said will dominate. Acoustic barriers were found not to be required.
- f) Concurrence was provided by TfNSW on 4 December 2023, subject to its general terms of approval which are imposed through the recommended conditions. General terms of approval have also been received with reference to s 22 of the Coal Mine Subsidence Compensation Act 2017.
- g) A Satisfactory Arrangements Certificate in relation to designated State public infrastructure has been obtained from the Department of Planning, Housing and Infrastructure under Appendix 8 of SEPP (PWCP) 2021.
- h) Council's concerns about the sufficiency of the area and configuration of the proposed playing field have been resolved with the double playing field originally anticipated in Neighbourhood Plan No.1 now to be provided instead within Neighbourhood Plan No.2
- i) Concerns about the availability of water supply and sewerage are addressed by conditions requiring connection of water and reticulated sewer prior the issue of a subdivision certificate.

## **CONDITIONS**

Notably, the Panel's report of its deferral determination made on 7 May 2024, sets out the Panels' resolution of issues which at that time had not been resolved between the Council and Landcom in relation to:

- A. Street Tree Protection Strategy (particularly the duration of the maintenance obligations of Landcom towards the street tree irrigation system);
- B. Koala fencing (including the extent and nature of the fencing to exclude koalas from straying into the development, and to contain dogs and other pets from escaping the development to endanger

- koalas, noting expert ecological advice submitted on the subject, the CPCP Koala Fencing Guidelines (CPCP), and Section 8.3.4.2.1 of the WGA DCP 2021);
- C. Additional WSUD irrigation water capture measures proposed by Council; and
  - D. Cycle path widths (2.5 metres as proposed by Landcom or 3.5 metres proposed by Council).

As anticipated in that report, the Applicant and the Council have resolved between them agreed conditions dated 26 August 2024 attached to the email from Council's Senior Development Assessment Planner which responds to the Panel's documented position, and notably updates the protections for koalas.

The Panel accepts the advice of the Council that those conditions have now been agreed and adequately regulate the development, noting that the GTA's of the referral authorities are addressed in the conditions.

In that regard, one important matter that arose at the meeting on 7 May 2024 was the servicing of the proposed development by Sydney Water due to correspondence which Sydney Water had sent to the Council raising capacity issues associated with the Bingara Gorge wastewater catchment under Service Delivery Agreements (SDA's). The Panel sought further advice from Council as to how the matters raised by Sydney Water were to be addressed in relation to the DA.

Following the 7 May 2024 meeting which sought clarification in that regard, Sydney Water reported by a letter of 17 May 2024:

***"Water Servicing***

- *There is NO existing drinking water servicing available for the proposed development.*
- *Sydney Water advises that the system capacity available for short term servicing for the North Wilton Precinct is **capped at 515 lots**. Allocation of these lots operates on a first-come first-serve basis. Please see the allocation table in **Attachment 2** of this letter for details.*
- *The proponent has informed us that their Stage 4 development comprising 105 lots, is next in their pipeline following the allocation of 197 lots in Stage 1. This leaves a balance lot allowance of approximately **213 lots** for North Wilton Precinct stage 2&3.*
- *Consequently, only partial development in Stages 2 and 3 can be supported once the cap of 515 lots is reached.*
- *The remaining 105 lots of Stages 2 and 3 can be serviced following the completion of Wilton New Town Stage 1 infrastructure works anticipated in **2027** subject to final Sydney Water business case approval.*

***Recycled Water Servicing***

- *There is NO existing recycled water servicing available for the proposed development.*
- *Sydney Water advises that the system capacity available for short term servicing for the North Wilton Precinct is **capped at 515 lots**. Allocation of these lots operates on a first-come first-serve basis. Please see the allocation table in **Attachment 2** of this letter for details.*
- *The proponent has informed us that Stage 4 development comprising 105 lots, is next in the pipeline following the allocation of 197 lots in Stage 1. This leaves a balance lot allowance of approximately 213 lots for North Wilton Precinct.*
- *Consequently, only partial development in Stages 2 and 3 can be supported once the cap of 515 lots is reached subject to development order.*
- *Presently, our strategy suggests that the remaining 105 lots of Stages 2 and 3 **will not be provided with recycled water services**. However, we are in the process of reviewing our strategy and reservoir capacity. Once that is completed, we can determine whether we can accommodate the remaining 105 lots in Stages 2 and 3.*

***Wastewater Servicing***

- *There is NO existing wastewater servicing available for this proposed development.*

- The proposed development **cannot** be serviced until the Wilton New Town Stage 1 trunk assets are delivered which is estimated for **2027**.
- Furthermore, the Bingara Treatment Plant is currently at capacity and cannot service the proposed development. The upgrade of the treatment plant is estimated to be completed in 2027.
- The proponent is advised to work with Sydney Water to explore possible interim servicing solutions for the North Wilton Stage 2 and 3 via a suitable Interim Operating Plan (IOP) until wastewater servicing becomes available following the infrastructure upgrade works in c 2027.

#### **Next steps**

- Should Council decide to progress with the subject development application, the following conditions are recommended to be included in the development consent. Further details of the conditions can also be found in **Attachment 1**.

**Condition 1.** Section 73 Compliance Certificate

**Condition 2.** Building Plan Approval

- The proponent is advised to liaise with their Sydney Water Account Manager to address system performance gaps and constraints.
- Sydney Water will continue to liaise with the Council on our servicing strategy and Bingara capacity tracking."

The conditions Sydney Water recommends are an attachment to the conditions which the Panel is informed Landcom has agreed to.

The Panel also understands that Sydney Water may consider an Interim Operational Procedure (IOP) as an interim solution

The Panel is satisfied that will adequately ensure that the capacity issues associated with the development are sufficiently managed because, in addition to the usual s 73 certificate requirements, the "Building Plan approval" Condition in the Sydney Water GTAs includes:

"The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to Sydney Water Tap in<sup>®</sup> to apply."





The Panel is satisfied therefore that Sydney Water will be in a position to ensure relevant water servicing capacity issues are resolved prior to substantial subdivision construction and excavation works commencing.

The issue of emergency access was also considered further, and the Panel notes advice that the GTAs/conditions of the NSW RFS and Council's Development Engineers provided for Stage 2 & 3 take into account the existing access arrangements, with RFS concluding they were appropriate for up to the proposed 450th lot.

Both the Applicant and Council confirmed that the development has been considered in light of the proposed VPA amendments, and the Conditions had been appropriately prepared in that regard.

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Justin Doyle (Chair)	 David Kitto
 Louise Camenzuli	 Blair Briggs

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-301 – Wollondilly – DA/2022/1279/1
2	PROPOSED DEVELOPMENT	Staged residential subdivision consisting of 318 residential lots, 4 superlots, 6 residue lots and associated works.
3	STREET ADDRESS	195 Fairways Drive, Wilton
4	APPLICANT/OWNER	Applicant: Landcom Owner: Bradcorp Wilton Park Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Precincts- Western Parklands City) 2021</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Wilton Growth Area Development Control Plan 2021</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<p>The Panel considered the material presented on the NSW Planning Portal for the application and:</p> <ul style="list-style-type: none"> <li>Council assessment report: 28 February 2024 and supplementary reporting and correspondence received from the Council</li> <li>Correspondence from the Applicant</li> <li>Correspondence from Sydney Water</li> <li>Written submissions during public exhibition: Nil</li> <li>Ecological advice of Cumberland Ecology</li> <li>Referral responses including from the Rural Fire Service</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Preliminary Briefing: 8 May 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Justin Doyle (Chair), David Kitto, Brian Kirk, Matt Gould</li> <li><u>Council assessment staff</u>: Bridie Riordan, Aimee Lee, Connie Swanepoels</li> <li><u>Applicant representatives</u>: Emily Hou, Ben Gibbons, Jeff Williams, Steve Martion, Nigel McAndrew, Peter Naidovski, Craig Hood</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Site inspection: 6 November 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Matt Gould, Blair Briggs</li> <li>○ <u>Council assessment staff</u>: Bridie Riordan</li> </ul> </li> <li>• Briefing to discuss council's recommendation: 19 February 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Louise Camenzuli, Matt Gould, Blair Briggs</li> <li>○ <u>Council assessment staff</u>: Bridie Riordan, Aimee lee, Corrie Swanepoel</li> <li>○ <u>Applicant representatives</u>: Emily Hou, Ben Gibbons, Jeff Williams, Steve Martion, Nigel McAndrew, Peter Naidovski, Craig Hood</li> </ul> </li> <li>• Briefing 8 April 2024: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Louise Camenzuli, Matt Gould, Blair Briggs</li> <li>○ <u>Council assessment staff</u>: Bridie Riordan, Aimee lee, Corrie Swanepoel</li> <li>○ <u>Applicant representatives</u>: Emily Hou, Ben Gibbons, Jeff Williams, Steve Martion, Nigel McAndrew, Peter Naidovski, Craig Hood</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report and as amended