

DATE OF DETERMINATION	26 March 2024
DATE OF PANEL DECISION	26 March 2024
DATE OF PANEL BRIEFING	4 March 2024
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, David Kitto, Blair Briggs, Matt Gould
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 26 February 2024.

MATTER DEFERRED

PPSSWC-354 - Wollondilly - DA/2023/707/1 - Lot: 101 DP:1293737, 195A Fairway Drive Wilton, and Lot: 104 DP: 1293737, 195D Fairway Drive Wilton - Torrens title subdivision comprising 105 residential lots and associated earthworks, utilities and infrastructure works, stormwater drainage works, and street tree planting.

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 the development application should be approved 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 approve the application for the reasons outlined in the council assessment report.

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

The Council assessment report on the DA concluded that the DA proposal is consistent with State and local legislation and, subject to the proposed consent conditions is recommended for approval. There were no public submissions.

The Panel accepts the advice contained in the assessment report in relation to the considerations under s 4.15 Environmental Planning & Assessment Act, and particularly that:

- a) The development will comply sufficiently with the Neighbourhood Plan, Wilton Growth Area Development Control Plan 2021 (WGA DCP 2021), State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP) and Wilton 2040: A Plan for the Wilton Growth Area (The applicable Land Use and Infrastructure Implementation Plan (LUIIP)).
- b) The Panel accepts the Council's consideration of some departures from the strict requirements of the Wilton DCP, given that Stage 4 was practically an extension of Stage 1 of the development the design for which was developed prior to the introduction of the WGA DCP 2021 and the fact that

the civil works for Stage 1 are substantially advanced. It is reasonable in those circumstances to maintain consistency with Stage 1 in the implementation of Stage 4. Specifically, the design does not comply with Council's Design and Construction Specifications for WSUD (relying on end-of-line treatment rather than an integrated approach), but Council has appropriately found that to be reasonable in context. Cycle and pedestrian paths provided are reported to have been considered appropriate.

- 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 in response to Council's referral including the requirement for the provision of asset protection zones. A temporary APZ (on lot 104) is proposed to be managed as an inner protection area (IPA).
- d) The Stage 1 DA included conditions for vegetation removal and earthworks for Stage 4. Those conditions required remediation of contamination at the site which has been completed and validated.
- e) Issues noted during the Panel's site inspection concerning Engineering Design Specification and compliance with the WGA DCP 2021 have been resolved. A variation to road widths requested due to steepness of site was accepted by Council's engineers, having regard to an appropriate transition from the Stage 1 road hierarchy. The Panel notes the Council's advice that all future road widths moving forward should nonetheless be consistent with WGA DCP 2021 requirements.
- f) 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.
- g) Concurrence was provided by TfNSW on 4 December 2023, subject to its general terms of approval which are imposed through the recommended conditions.
- h) A Satisfactory Arrangements Certificate was provided on 3 November 2023.
- 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

The development application was approved subject to the conditions in the council assessment report with the following amendments.

Council's recommendation for approval identified issues remaining for resolution through condition over which debate remained for resolution by the Panel. Those issues and the parties' respective positions in relation to them are set out in a document in table form uploaded to the portal.

In particular, Conditions 117, 122, 123 and 124 notably propose street tree irrigation system infrastructure and street tree protection. The conditions propose to require maintenance under a proposed Street Tree Protection Strategy including measures to protect street trees and associated irrigation systems from damage which the developer would be required to comply with for period of 5 years from the date of subdivision registration.

The Applicant's representatives had argued that a one year maintenance program was sufficient.

At the invitation of the Panel, conferral occurred between the developer and the Council in an attempt to resolve disagreement in relation to those matters. The result was an updated memorandum presenting the respective positions of the Council and the Applicant. Having considered the arguments in that document, the Panel is of the preliminary opinion that:

1. Establishment of the street tree planting is an important part of the development. Particularly due to the reliance upon such planting to achieve the canopy cover and street tree planting encouraged by Section 3.5 Retention and Planting of Street Trees and Landscaping of the WGA DCP. That Section adopted by the Deputy Secretary of Planning includes as an objective:

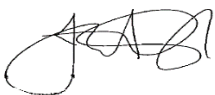




“Provide for new trees and where practical retain existing trees as landscape elements to ensure the community benefits from urban amenity, cooler neighbourhoods, improved air and water quality and to enhance biodiversity on the site.”

2. While the Panel accepts that the long term maintenance of the street trees should fall on the Council as the owner of the street infrastructure, the developer ought to be responsible for maintenance to ensure establishment of the planted vegetation. As the entity which engaged the subcontractors who will install the irrigation system the developer is best placed to attend to maintenance during that period of establishment. It should include watering and replacement of failed plantings.
3. One year is insufficient to ensure that street trees are properly established. A period of two years is however sufficient. From that time the maintenance obligation might reasonably be passed to the Council.
4. For clarity in the maintenance obligations, it is appropriate for a maintenance plan to be resolved prior to the issuing of a subdivision certificate, and the subdivided lots are sold. A requirement that the maintenance plan include a strategy to ensure purchasers of the lots understand that street trees are not to be damaged or removed, and the benefits of street trees is reasonable and should not be unduly onerous.
5. Conditions 117, 122, 123 and 124 should be amended to replace references to a 5 year term with a 2 year term.

The Applicant has requested a final briefing to discuss the conditions to be imposed on the development due to the cost ramifications for the issues raised across the wider Wilton release. The Panel reserves its final position in relation to the final form of the conditions to take into account discussions at that briefing at which time the final determination of the DA will issue.

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)	 Louise Camenzuli
 David Kitto	 Blair Briggs
 Matt Gould	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-354 - Wollondilly - DA/2023/707/1
2	PROPOSED DEVELOPMENT	Torrens title subdivision comprising 105 residential lots and associated earthworks, utilities and infrastructure works, stormwater drainage works, and street tree planting.
3	STREET ADDRESS	Lot: 101 DP:1293737, 195A Fairway Drive Wilton, and Lot: 104 DP: 1293737, 195D Fairway Drive Wilton
4	APPLICANT/OWNER	Applicant: Landcom Owner: Landcom and Bradcorp
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 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 (Transport and Infrastructure) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Precincts- Western Parklands City) 2021 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Wilton Growth Area Development Control Plan 2021 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: 28 February 2024 List any council memo or supplementary report received: 1 March 2024 Written submissions during public exhibition: Nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 25 October 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Louise Camenzuli, Matt Gould <u>Council assessment staff</u>: Bridie Riordan, Aimee lee, Corrie Swanepoel <u>Applicant representatives</u>: Emily Hou, Ben Gibbons, Jeff Williams, Steve Martion, Nigel McAndrew, Peter Naidovski, Craig Hood Site inspection: 6 November 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Matt Gould, Blair Briggs <u>Council assessment staff</u>: Bridie Riordan

		<ul style="list-style-type: none">• Final briefing to discuss council’s recommendation: 4 March 2024<ul style="list-style-type: none">○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Louise Camenzuli, Matt Gould, Blair Briggs○ <u>Council assessment staff</u>: Bridie Riordan, Aimee lee, Corrie Swanepoel○ <u>Applicant representatives</u>: Emily Hou, Ben Gibbons, Jeff Williams, Steve Martion, Nigel McAndrew, Peter Naidovski, Craig Hood
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report