

DETERMINATION AND STATEMENT OF REASONS

WESTERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	10 February 2022
DATE OF PANEL DECISION	9 February 2022
DATE OF PANEL MEETING	1 February 2022
PANEL MEMBERS	Garry Fielding, Sandra Hutton, Graham Brown, Allan Renike
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 7 February 2022.

MATTER DETERMINED

PPSWES-109 – Orange – DA390/2021(1) at 1502 and 1610 Forest Road, Orange – Recreation Facility (Major) – Concept and Stage 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.

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 approve the application for the reasons outlined in the council assessment report and council assessment memorandum.

The Panel has had the benefit of a view of the site on 9 November 2021, a council assessment report dated 18 January 2022, a number of briefings from council staff, numerous technical reports and a public meeting on 1 February 2022. At the public meeting a solicitor representing NSW Health raised a number of procedural questions (as distinct from merit issues) over the contents of the council assessment report and specifically whether a submission that was received by the council after the close of submissions was addressed in the council officers report. For abundant caution, the Panel deferred the determination of the application for the council to address the submission from NSW Health.

The Panel now has the benefit of a comprehensive council assessment memorandum dated 7 February 2022 that addresses the reasons for the Panel deferral on 1 February 2022. The Panel is satisfied that the council assessment memorandum satisfactorily addresses those matters raised in the submission from NSW Health. The Panel is also mindful that the Stage 1 application seeks approval for “bulk earthworks, tree clearing, building demolition and category 1 remediation”, only.

This approach is consistent with the Concept Development Application provisions under s 4.22(1) of the *Environmental Planning and Assessment Act 1979* where a Concept Development Application is described as:

- *a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.*

The Panel is also mindful of s 4.22(5) which directly responds to a number of matters in the NSW Health submission. S4.22(5) provides that:

- *The consent authority, when considering under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.*

The Panel is satisfied that the scope and scale of the concept development application is acceptable having regard to s4.15, particularly given the comprehensive technical reports and the ability to impose conditions on the subsequent development applications. The Panel is also satisfied that granting development consent to Stage 1 is justified subject to the conditions in the council assessment memorandum dated 7 February 2022.

CONDITIONS

The concept development application including the Stage 1 development was approved subject to the conditions in the council assessment report, with the following amendments:

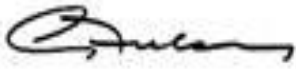



- After condition 1(b), replace text stating requirement for “future development applications” with “subsequent stages”
- Typographic edits to condition 33:
 - In the first sentence, remove “the” which is located before “any”; and
 - Remove text containing “golf hole 4 and 14” and replace with “the tee boxes for golf holes 4 and 14”.

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. The Panel notes that issues of concern included:

- Community Consultation
- Site Selection and Use
- Visual Impacts, Traffic
- Parking and Transport Impacts
- Environmental Impacts
- Noise, Heritage
- Social Impacts
- Economic Concerns
- Utility 3
- Infrastructure/Services
- Strategic Planning and Policy Alignment.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and in the council assessment memorandum dated 7 February 2022. The Panel notes that in addressing the community’s issues appropriate studies have been carried out and suitable conditions have been imposed on the consent.

PANEL MEMBERS	
 Garry Fielding (Chair)	 Sandra Hutton
 Graham Brown	 Allan Renike

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-109 – Orange – DA390/2021(1)
2	PROPOSED DEVELOPMENT	Recreation Facility (Major) – Concept and Stage 1
3	STREET ADDRESS	1502 and 1610 Forest Road, Orange
4	APPLICANT/OWNER	(Applicant) Orange City Council – David Walker (Owner) Orange City Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related 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 (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No 55—Remediation of Land State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 Orange Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Orange Development Control Plan 2004 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"> Council assessment report: 18 January 2022 Council addendum report: 7 February 2022 Written submissions during public exhibition: 33. 1 additional submission was received outside the exhibition period. Total unique submissions received by way of objection: 22 Verbal submissions at the public meeting 1 February 2022: <ul style="list-style-type: none"> Community members: Cyril Smith, Nick King, Katie Hook, Malcolm Stacey, Julie Pont, Thomas Kwok, Stephen Martin, Ming Chan, Kevin Duffy, Melanie McDonell On behalf of the applicant: Scott Maunder, David Walker
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 21 September 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Garry Fielding (Chair), Sandra Hutton, Graham Brown, Allan Renike <u>Council assessment staff</u>: Mark Hodges, Paul Johnston, Benjamin Hicks Briefing: 9 November 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Garry Fielding (Chair), Sandra Hutton, Graham Brown, Allan Renike <u>Council assessment staff</u>: Mark Hodges, Paul Johnston, Benjamin Hicks Site inspection: 9 November 2021

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Sandra Hutton, Graham Brown, Allan Renike ○ <u>Council assessment staff</u>: Mark Hodges, Paul Johnston, Benjamin Hicks <ul style="list-style-type: none"> ● Final briefing to discuss council's recommendation: 1 February 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Sandra Hutton, Graham Brown, Allan Renike ○ <u>Council assessment staff</u>: Mark Hodges, Paul Johnston, Ben Hicks ○ <u>Panel Secretariat</u>: Amanda Moylan ● Final briefing to discuss council's addendum report: 8 February 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Sandra Hutton, Graham Brown, Allan Renike ○ <u>Council assessment staff</u>: Mark Hodges, Paul Johnston, Ben Hicks, Ian Greenham, David Waddell ○ <u>Panel Secretariat</u>: Amanda Moylan
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council addendum assessment report