

DATE OF DETERMINATION	01 February 2024
DATE OF PANEL DECISION	31 January 2024
DATE OF PANEL MEETING	30 January 2024
PANEL MEMBERS	Garry Fielding (Chair), Graham Brown, Donna Rygate
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 25 January 2024 (Council Assessment Report).

MATTER DEFERRED

PPSWES-168 - DA227/22 – Lithgow - Lot 1 DP1268778 – 10 Col Drewe Drive Bowenfels NSW 2790 (Development Allotment), Lot 2 DP1049398 – Great Western Highway Bowenfels (Civil Works) and Lot 2 DP1082148 – Col Drewe Drive Bowenfels NSW 2790
(Civil Works) Staged subdivision of 1 lot into 46 residential lots and 1 lot, public reserve, civil works and associated infrastructure (as described in Schedule 1).

REASONS FOR DEFERRAL

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

The Applicant in this application is Lithgow City Council and the Council Assessment Report was prepared by the Department of Planning, Housing and Infrastructure in collaboration with Lithgow City Council. The Panel was briefed by the Department, Lithgow City Council and a representative of the consultants commissioned by Lithgow City Council.

The Panel expressed concern over the proposed intersection at the corner of Road A and Col Drewe Drive where the intersection indicated the start of a new road that extended, for a short distance, into the residentially zoned land to the west. No indication of the design of the future development of this area of residentially zoned land was available to the Panel. The plans provided for the subject application indicated that the extension of the road would require the removal of a tree near the area where this road ended. This tree was marked for retention in amended DA engineering plans (Plan CD051) and included in the assessment of biodiversity for the site.

During the discussion on this issue, it was revealed that the earthworks for Road A had commenced. This was not a matter addressed in the Council Assessment Report. An approval under Part 5 of the Environmental Planning and Assessment Act 1979 had been granted for these works based on an existing area of road reserve on the deposited plan. The alignment was shown on one of the engineering plans (Plan CD007) submitted with the application but not designated as such. The alignment of Road A and the alignment of the road on the deposited plan are different for most of their length.

The Panel was unsure how the Part 5 approval impacts on the development application, particularly considering the concern over the proposed intersection at the corner of Road A and Col Drewe Drive and the retention of the nearby tree.

Consequently, the Panel agreed to defer the determination of the DA to allow the preparation of an addendum report addressing the above matters.

The decision to defer the matter was unanimous.

ACTIONS

1. To allow for the progression of the Development Application to determination, the Panel directed the Council to prepare an Addendum Report and upload all documentation to the Planning Portal by 20 February 2024, addressing:
 - The details of the Part 5 approval for the Road A construction including the application, the accompanying Review of Environmental Factors, and approved plans,
 - Retention of the tree near the proposed intersection at the corner of Road A and Col Drewe Drive, including amended intersection designs,
 - Whether the Part 5 approval impacts on the determination of this DA and consequential conditions, if approval is to be granted by the Panel.

When the addendum report is received the Panel will determine the application by way of electronic determination unless the Panel concludes that a further briefing is required.

PANEL MEMBERS	
 Garry Fielding (Chair)	 Graham Brown
 Donna Rygate	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-168 - DA227/22 –Lithgow
2	PROPOSED DEVELOPMENT	(Civil Works) Staged subdivision of 1 lot into 46 residential lots and 1 lot, public reserve, civil works and associated infrastructure
3	STREET ADDRESS	Lot 1 DP1268778 – 10 Col Drewe Drive Bowenfels NSW 2790 (Development Allotment), Lot 2 DP1049398 – Great Western Highway Bowenfels (Civil Works), Lot 2 DP1082148 – Col Drewe Drive Bowenfels NSW 2790
4	APPLICANT/OWNER	Lithgow City Council (Lot 1 DP1268778) Bernadette Seckold (Lot 2 DP1049398) John and Heather Baxter (Lot 2 DP1082148)
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 (Planning Systems) 2021 • State Environmental Planning Policy (Biodiversity & Conservation) 2021 • State Environmental Planning Policy (Resilience & Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • Lithgow Local Environmental Plan 2014 • Draft environmental planning instruments: Nil

		<ul style="list-style-type: none"> • Development control plans: <ul style="list-style-type: none"> • The Lithgow Development Control Plan 2021. • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • Coastal zone management plan: Nil-Condition of approval • 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"> • Attachment A: Draft Conditions of Consent • Attachment B: Assessment Report • Attachment C: Subdivision and Engineering Plans • Attachment D: Concept Master Plan • Attachment E: Landscape Plan 1 • Attachment F: Landscape Plan 2 • Attachment G: Landscape Plan 3 • Attachment H: Biodiversity Development Assessment Report Attachment I: Bushfire Assessment • Attachment J: Preliminary Contamination Report • Attachment K: Heritage Impact Statement & Additional Supporting Information • Attachment L: Statement of Environmental Effects • Written submissions during public exhibition: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site Inspection: 14 February 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding, Graham Brown, Note - Donna Rygate visited site on 13 February 2023 • Council briefing: 21 February 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Graham Brown, Donna Rygate ○ <u>Council assessment staff</u>: Lauren Stevens ○ <u>Assessment staff (DPE Flying Squad)</u>: Ian Clark, Ranye Abu Ganaba and Yunna Kim • Council briefing: 22 March 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Graham Brown, Donna Rygate ○ <u>Council assessment staff</u>: Lauren Stevens, Sherilyn Hanrahan ○ <u>Applicant</u>: Angus Scott, Tony McBurney, Andrew Elia and Paul Koen ○ <u>Assessment staff (DPE Flying Squad)</u>: Ian Clark, Ranye Abu Ganaba

		<p>and Yunna Kim</p> <ul style="list-style-type: none"> • Final briefing to discuss council’s recommendation: 30 January 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Graham Brown, Donna Rygate ○ <u>Council assessment staff</u>: Lauren Stevens, Emma-Rose Cooper ○ <u>Applicant</u>: Sherilyn Hanrahan, Mike Scott (consultant) ○ <u>Assessment staff (DPHI Flying Squad)</u>: Ian Clark
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report.