



DETERMINATION AND STATEMENT OF REASONS
WESTERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	06 March 2024
DATE OF PANEL DECISION	06 March 2024
DATE OF PANEL MEETING	05 March 2024
PANEL MEMBERS	Garry Fielding (Chair), Graham Brown, Donna Rygate
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 19 February 2024 (Council Addendum Report).

MATTER DETERMINED

PPSWES-168 - DA227/22 – Lithgow

Lot 1 DP1268778 – 10 Col Drewe Drive Bowenfels NSW 2790

Staged subdivision of one (1) lot into forty-six (46) residential lots and one (1) residual lot, civil works, and associated infrastructure.

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 listed at item 8 in Schedule 1.

The Panel has been briefed on the application on 21 February 2023, 22 March 2023 and a site inspection carried out on 14 February 2023. The application came before the Panel on 30 January 2024 for determination however the Panel was advised that road works had commenced on part of the proposed subdivision, specifically Road A. The Panel was further advised at this meeting that an application had been approved by the Council on 8 November 2023 under Part 5 of the *Environmental Planning and Assessment Act 1979* for these works. The Panel deferred consideration of the application as the Part 5 approval was not fully addressed in the assessment report prepared by the Department for Council, notwithstanding that the Part 5 approval predated the preparation of the assessment report. It was also not clear to the Panel at this meeting how the Part 5 approval by the Council impacted on the development application.

The Panel met again on 5 March 2024 for the determination of the application. Additional information was provided to the Panel in response to the reasons for the deferral of the application on 30 January 2024, including details of the Part 5 approval.

Leaving the Panel to consider only part of the originally submitted application is not primal. In coming to the conclusion that development consent could be granted, the Panel acknowledges the existence of the Part 5 approval. However, the Panel needs to make it clear that the Part 5 process undertaken by the Council, including the application, assessment and conclusions, are not matters that the Panel addressed or reviewed in any way because this would be beyond the Panel's remit.

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


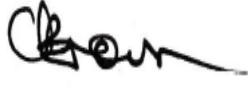

The Panel determined to approve the application for the reasons outlined in the Council Addendum Report.

CONDITIONS

The Development Application was approved subject to the Amended Conditions of Consent submitted with Council Addendum Report, subject to minor changes to conditions 1 and 2 to reinforce the exclusion of part of the subdivision from this approval and to reinforce the tree protection requirements set out in condition 43.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel noted no written submissions were made during public exhibition.

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	Staged subdivision of one (1) lot into forty-six (46) residential lots and one (1) residual lot, civil works, and associated infrastructure.
3	STREET ADDRESS	Lot 1 DP1268778 – 10 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:• 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• Development control plans:• The Lithgow Development Control Plan 2021.• Planning agreements: Nil• Relevant provisions of the <i>Environmental Planning and Assessment</i>

		<p><i>Regulation 2021</i></p> <ul style="list-style-type: none"> 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 Addendum Report Attachment A.1 – Referral Determination Statement of Reasons Attachment B.1 – Revised Set of Civil Plans Attachment C.1 – Amended Conditions of Consent D.1 – Review of Environmental Factors Addendum Report E.1 – Review of Environmental Factors (REF) Attachment F.1 – Site Inspection Image 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 <u>Council briefing</u>: 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 and Yunna Kim 30 January 2024 – E Determination (Matter deferred) <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 <u>Assessment staff (DPE Flying Squad)</u>: Ian Clark Final briefing to discuss council's recommendation: 05 March 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, Shaun Elwood

		○ <u>Assessment staff (DPE Flying Squad):</u> Yunna Kim
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report.