

DETERMINATION AND STATEMENT OF REASONS
WESTERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	15 November 2021
PANEL MEMBERS	Garry Fielding (Chair), Graham Brown, Sandra Hutton, Bill Bott
APOLOGIES	Ian Kreutzberger
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 28 October 2021.

MATTER DETERMINED

PPSWES-38 – Federation – DA2020-37 - North Street and Tocumwal Road Mulwala - Stage 1 108 lot Subdivision and Concept Development (495 Lots total) (as described in Schedule 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. The Panel was also made aware of an updated traffic impact assessment not directly identified in the assessment report and noted that the views of TfNSW had not been obtained, as it relates to that updated assessment and the traffic impacts to intersections to the state road network.

The panel specifically also considered a request from the applicant to defer determination of the application to provide additional time to address the reasons for refusal outlined in the Council assessment report.

Development application

The panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

Whilst the land is appropriately zoned for residential subdivision and can deliver benefits to Mulwala and its community through the provision of ongoing housing supply in an appropriate location, there are matters of substance that remain unresolved despite the scale of the proposal and the length of time the application has been under discussion and assessment. For this reason, the Panel did not support deferral of the application.

The Panel encourages the applicant and owner to pursue negotiations to establish adequate arrangements for essential services ahead of lodgement of a fresh development application, and encourages the provision of an appropriately documented and detailed development application with full description of the proposal and its essential components, with full consistency across documents and with adequate environmental assessment of the proposal (and its essential components), inclusive of those identified in Council's assessment report. Taking this time to systematically and comprehensively respond to the matters should then assist in converting the documented strategic and zoned potential of the land into orderly and economic use and development of the land for the benefit of Mulwala and its community.

REASONS FOR THE DECISION

The panel determined to refuse the application for the following reasons:

1. Pursuant to the provisions of section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the Panel as the consent authority is not satisfied that the water and sewerage services that are essential for the proposed development are available to serve the proposed development or that

adequate arrangements have been made to make them available when required in accordance with the provisions of clause 7.9 of the Corowa Local Environmental Plan 2012. Accordingly, consent to the development application must be refused.

2. The application provides insufficient and/or inconsistent detail regarding the provision of essential services (including water, sewer, roads and stormwater), the provision of facilities for the proposed open space area, and the impact the development (including essential off site works) may have on the environment and upon the road network surrounding the proposed development. Therefore, the proper evaluation of the application having regard to the relevant matters for consideration under section 4.15(1) of the Environmental Planning and Assessment Act 1979 is unable to be undertaken.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition.

PANEL MEMBERS	
 Garry Fielding (Chair)	 Sandra Hutton
 Graham Brown	 William Bott

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-38 – Federation – DA2020-37
2	PROPOSED DEVELOPMENT	Stage 1 108 lot Subdivision and Concept Development (495 Lots total)
3	STREET ADDRESS	North Street and Tocumwal Road Mulwala
4	APPLICANT/OWNER	Applicant: Andrew Mott – North East Survey Design Owner: Hezem Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	• Biodiversity Conservation Act 2016 • State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Vegetation Non Rural Areas) 2017 State Environmental Planning Policy (Koala Habitat Protection) 2021 • State Environmental Planning Policy 55 – Remediation of Land • Murray Regional Environmental Plan No.2 – River Murray • Corowa Local Environmental Plan 2012 • Corowa Development Control Plan 2012. • Offer to enter into Draft Planning Agreement under section 7.4 of the EPA Act. • Federation Council Engineering Guidelines. • Federation Council Community Participation Plan. • Federation Council Long Term Financial Plan 2021-2031 • Federation Council Developer Levy
7	MATERIAL CONSIDERED BY THE PANEL	• Council assessment report: 28 October 2021 • Information included in the development application pursuant to Clause 50 of the Regulations. • Traffic Impact Assessment (TTM) : 3 November 2021 • Written submissions during public exhibition: 2 • Total number of unique submissions received by way of objection: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Briefing and Site Visit: 23 July 2021 - o <u>Panel members</u>: Garry Fielding (Chair), Sandra Hutton, Bill Bott - o <u>Council assessment staff</u>: Susan Appleyard, Adrian Butler - o <u>Applicant representative</u>: Andrew Mott, Leon Gleeson (owner) • Final briefing to discuss council's recommendation: 15 November 2021 - o <u>Panel members</u>: Garry Fielding (Chair), Graham Brown, Sandra Hutton, Bill Bott - o <u>Council assessment staff</u>: Susan Appleyard, Scott Donders, Ben Falconer, Adrian Butler, Jo Shannon, Steve Carmichael - o <u>Applicant representatives</u>: Andrew Mott
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report