

DATE OF DETERMINATION	9 September 2026
DATE OF PANEL DECISION	9 September 2026
DATE OF PANEL MEETING	1 September 2026
PANEL MEMBERS	Chris Wilson (Chair), Natasha Harras, Grant Christmas, John Preston
APOLOGIES	None
DECLARATIONS OF INTEREST	Juliet Grant declared a professional conflict. Juliet is an employee of Gyde, and the applicant is a client of Gyde.

The public meeting was held by videoconference on 1 September 2026, opened at 11am and closed at 12:45pm.

Papers circulated electronically on 5 August 2026.

MATTER DETERMINED

PPSSTH-587 – QUEANBEYAN-PALERANG - DA.2026.0113 at 873 Wallaces Gap Road, Ballalaba NSW 2620 (Lot 81 DP 755905) - Construction of a solar farm, battery energy storage systems, landscaping and associated site works (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 also inspected the site.

A Public Determination meeting was held on 1 September 2026 where members of the community, stakeholders and the Applicant were given a further opportunity to address the Panel.

The Panel noted that several late submissions were received from members of the public and additional late information was provided by both the Council and the Applicant as follows:

- 27 August 2026 – The Applicant’s request that the Panel defer the determination to allow additional time for:
 - Council to consider further information provided by the Applicant with regard to potential traffic impacts and visual impacts of the proposal; and
 - The Applicant to seek further advice with regard to Aboriginal Cultural Heritage.
- 20 August 2026 - The Applicant’s response to QPRC Draft Reasons for Refusal (Zenith Planning).
- 19 August 2026 – A revised Traffic and Parking Impact Statement (McLaren Traffic Engineering).
- 27 August 2026 – An updated Engineering Assessment (QPRC).
- 31 August 2026 - The Applicant’s response to the Council’s Updated Engineering Assessment.
- 2 September 2026 – A copy of the presentation made by Tim Owen (CML Heritage) at the Determination Meeting on behalf of the Applicant with regard to Aboriginal Cultural Heritage.

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.

REASONS FOR THE DECISION

The Panel determined to refuse the application for the reasons outlined in the Council Assessment Report, subject to amendment by the Panel as discussed further below. The final reasons for refusal are attached in Schedule 2.

The Panel refused the application after carefully considering the material before it, including the Council's assessment report and reasons for refusal, the community's views expressed through public submissions and oral presentations at the determination meeting, and the material produced on behalf of the Applicant, including the various submissions before and during the Determination Meeting.

The Panel notes that the Applicant did not seek a deferral of the determination as previously requested but submitted at the public determination meeting that there was sufficient information for the Panel to issue conditional consent. The Panel concluded, however, that the Applicant had not demonstrated that the site would be suitable for the proposed development, having regard to section 4.15 and the objects of the *Environmental Planning and Assessment Act, 1979*.

Aboriginal Cultural Heritage

Clause 5.10(8) of the Council's LEP requires the consent authority, before granting consent, to 'consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation'.

As identified in submissions, the Council's assessment report, and by the Applicant's own representative at the determination meeting, insufficient assessment has been undertaken to date to determine whether the proposal would impact Aboriginal objects, Aboriginal places of significance or other Aboriginal cultural heritage values, and/or whether appropriate avoidance, mitigation or management measures could be implemented.

Both the Council and the Applicant's representative agree that the best way to investigate the site's values is to prepare an Aboriginal Cultural Heritage Assessment Report (ACHAR). The Panel notes that no such assessment has been undertaken despite previous requests by the Council that a ACHAR be prepared and submitted in support of the application.

Satisfying clause 5.10 of the LEP is a precondition to granting consent, and even if the Panel were of a mind to approve the application, legally it cannot do so without an appropriate assessment of Aboriginal cultural values.

Visual Impacts

The Panel notes both the Council's and the community's concerns regarding potential visual impacts. The Panel questions the methodology used in the Applicant's visual impact assessment (VIA), particularly the lack of viewpoint analysis from potentially affected residences looking towards the arrays. While the Panel notes that access to some properties was not possible, the Applicant should, where possible, have established representative viewpoints to the proposed development to provide a more comprehensive understanding of potential impacts and the ability to mitigate them. This is especially true for properties identified as highly or moderately affected.

Consequently, an additional reason for refusal has been included as follows: Pursuant to Section 4.15 (1)(b) of the EP&A Act, the Panel is not satisfied that adequate information has been provided to enable a comprehensive assessment of the likely visual impacts of the development on the surrounding built environment and locality.

Traffic and Road Related Matters

The Panel notes and accepts both the community's and the Council's concerns regarding access to and along Wallaces Gap Road. While a condition of consent could have been imposed to limit heavy vehicle movements along Wallaces Gap Road (i.e. prohibiting B-double movements), the Panel understands

additional matters remain unresolved, including road upgrades that require further investigation and resolution.

The Panel noted comments from community members and the Council about the community's concerns about the lack of early consultation in the proposal's development and the resulting lack of a social license.

The Panel acknowledged some community support for using the facility as a microgrid during emergency periods; however, the Panel noted this did not form part of the development application.

CONDITIONS

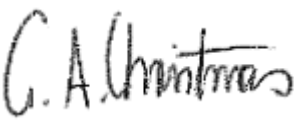
Council recommended refusal; therefore, no conditions of consent were prepared.

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:

- Visual impact on the landscape character of the locality and incompatibility with the rural character of the locality and inconsistent with the zoning objectives of the LEP
- Adverse traffic and road safety impacts on Wallaces Gap Road
- Increased fire risks associated with the solar panels and lack of appropriate mitigation measures
- Lack of adequate screening resulting in adverse glare impacts on the locality
- Contamination risks associated with site being located on a catchment area
- Noise impacts resulting from the construction phase and ongoing use of the development
- Land identified as containing significant aboriginal cultural heritage value and lack of documentation addressing Aboriginal Heritage
- Decreased property values
- Lack of community consultation

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Natasha Harras
 Grant Christmas	 John Preston

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-587 – QUEANBEYAN-PALERANG - DA.2026.0113
2	PROPOSED DEVELOPMENT	Construction of a solar farm, battery energy storage systems, landscaping and associated site works
3	STREET ADDRESS	873 Wallaces Gap Road Ballalaba NSW 2620 (Lot 81 DP 755905)
4	APPLICANT/OWNER	EDPR Australia Pty Ltd / Kyal Jacob Neilsen & Terry Andrew Neilsen
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	• Environmental planning instruments: ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ Queanbeyan-Palerang Regional Local Environmental Plan 2022 • Draft environmental planning instruments: Nil • Development control plans: ○ Palerang Development Control Plan 2015 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • 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	• Council Assessment Report: 5 August 2026 • Written submissions during public exhibition: 27 written submission were received during the first exhibition period, and 24 written submissions were received during the second exhibition period • Additional written submissions received after the publication of the Council Assessment Report. • 27 August 2026 - Applicant request for the Panel to defer the determination to all addition time for: ○ Council to consider further information provided by the applicant with regard to potential traffic impacts and visual impacts of the proposal; and • The applicant to seek further advice with regard to Aboriginal Cultural Heritage. • 20 August 2026 - Applicant response to QPRC Draft Reasons for Refusal (Zenith Planning). • 19 August 2026 - Traffic and Parking Impact Statement (McLaren Traffic Engineering) • 27 August 2026 - Updated Engineering Assessment (QPRC) • 31 August 2026 - Applicant response to QPRC Updated Engineering Assessment

		• 2 September 2026 - Copy of presentation made by Tim Owen (CML Heritage) on behalf of applicant with regard to Aboriginal Cultural Heritage • Verbal submissions at the public meeting held on 1 September 2026: ○ Matthew Darwon obo Majors Creek Progress Association, John Tuckwell obo Braidwood Clean Energy, Peter Bell, Cathy Noakes, Brad Smith, Brad Smith obo Ayden Sheridan, Timothy Lenehan, Craig Sheridan, Jenifer Frederick, Celia Connery, Scott Hart, Bonnie Sheridan, Sue Murray ○ Council assessment officer – Kylie Coe ○ On behalf of the applicant – Jou Jong, Mishka Talent, Nikki Wade, Dr Tim Owen • Total number of unique submissions received by way of objection: 22
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Site inspection: 13 May 2026 ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas ○ <u>Council assessment staff</u>: Ranganathan Ravi, Kylie Coe • Final briefing to discuss council's recommendation: 1 September 2026 ○ <u>Panel members</u>: Chris Wilson (Chair), Natasha Harras, Grant Christmas, Morgan Broadbent, John Preston ○ <u>Council assessment staff</u>: Ranganathan Ravi, Kylie Coe ○ <u>DPHI</u>: Amanda Moylan, Tracey Gillett
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	NA

SCHEDULE 2 – Final Reasons for Refusal

- a. Insufficient information has been provided to complete an adequate assessment of the application under Section 4.15 of the Environmental Planning and Assessment Act, 1979 (EP&A Act). In accordance with Clause 36(5) of the Environmental Planning and Assessment Regulation 2021, the applicant is taken to have notified the Panel that the additional information requested will not be provided.
- b. The development is inconsistent with the objectives under the National Parks and Wildlife Act 1974, in particular, Section 2A (b) and the Panel cannot be satisfied that the development will conserve objects, places or features of cultural value to Aboriginal people as the application has not identified or assessed the potential impacts of the development on Aboriginal heritage.
- c. The development is inconsistent with the aims of the Queanbeyan Palerang Regional Local Environmental Plan 2022 (LEP), in particular aims (a), (h), (i) and (k). The absence of an Aboriginal Cultural Heritage Assessment Report (ACHAR) and response to visual impacts concerns and insufficient information relating to the width and suitability of Wallaces Gap Road for construction vehicular traffic, prevents the Panel from being satisfied that the proposal appropriately protects and manages the environmental and cultural heritage values, responds sensitively to the character and landscape of the locality.
- d. The development is inconsistent with the objectives of the RU1 Primary Production zone under the LEP as the application has not demonstrated that the development will maintain and enhance the natural resource base and the potential impacts on the surrounding rural land use. The lack of an ACHAR, response to visual impact concerns and insufficient information relating to the width and suitability of Wallaces Gap Road for construction vehicular traffic prevents the Panel from being satisfied that the development achieves the intended objectives of the zone.
- e. The development is inconsistent with Clause 5.10 of the LEP. In the absence of an ACHAR, the Panel is unable to determine whether the proposal would result in impacts to Aboriginal objects, Aboriginal places of significance or other Aboriginal cultural heritage value or whether appropriate avoidance, mitigation or management measures can be implemented.
- f. Pursuant to Section 4.15 (1)(b) of the EP&A Act, the Panel is not satisfied that adequate information has been provided to enable a comprehensive assessment of the likely visual impacts of the development on the surrounding built environment and locality.
- g. Pursuant to Section 4.15 (1)(b) and (c) of the EP&A Act, the Panel is not satisfied that adequate information has been provided to enable a comprehensive assessment of the likely traffic impacts and the suitability of the site for the development.