

DATE OF DETERMINATION	1 April 2020
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran, Frank Carbone, Ninos Khoshaba
APOLOGIES	None
DECLARATIONS OF INTEREST	Louise Camenzuli declared a potential conflict of interest arising from an interstate practitioner in the law firm in which she is a partner having advised the applicant

Papers circulated electronically between 27 March 2020 and 1 April 2020.

MATTER DETERMINED

2019WCI022– Fairfield City Council – DA/93.1/2019 – 224-398 Burley Road, HORSLEY PARK – Construction of an Industrial Complex Comprising of Four (4) Industrial Warehouse Buildings, Construction and Fit out of a Masonry Plant and Associated Site Works, Signage and Subdivision. (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.

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

- A. On 16 December 2020 the panel resolved to defer determination of this matter while resolving on that day unanimously:
1. Having regard to the provisions of CL 26 (3) and Cl. 29(3) of *SEPP (Western Sydney Employment Area) 2009 ('WSEA SEPP')*, the Panel is not able to determine this application at this time as the land is being converted from a non-industrial use, but a 'Satisfactory Arrangements Certificate' has not yet been issued by the Director General Department of Planning in relation to satisfactory arrangements having been made to contribute to the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) in relation to the land to which this DA applies. Under clause 29, the requirement for that certificate is a mandatory precondition where land is being converted from a non-industrial to an industrial use.
 2. However, having considered the relevant material including the Council officer's assessment report the Panel is of the view that once the certificate required by cl.29 of the SEPP the proposal is likely to warrant approval subject to the draft conditions recommended in the staff assessment report, as well as any additional requirements arising from the Director General's advice when it is received.
 3. The Reasons the Panel considers the development is likely to warrant approval are;
 - a) The proposal will contribute to the development of the Western Sydney Employment Area by adding additional warehousing capacity and additional manufacturing activity

in a readily accessible location. The proposal will generate additional employment within the Fairfield Local Government Area and the Sydney Western City District.

- b) The proposed development adequately satisfies the relevant State Legislation and State Environmental Planning Policies including the Water Management Act 2000, SEPP (Western Sydney Employment Area 2009, SEPP 55 -Remediation of Land, SEPP 33 Hazardous and Offensive Development, SEPP (Infrastructure) 2007, SEPP 64 (Advertising and Signage) and SREP N0. 20 Hawkesbury Nepean Catchment.
- c) The proposal adequately satisfies the applicable objectives and provisions of Oakdale East Estate DCP noting that the layout of the road network is in accordance with the Indicative Access Plan.
- d) The proposed development subject to the conditions imposed will have no unacceptable adverse impacts on the natural or built environments including native vegetation, the local riparian system or the operation of the road system.
- e) The proposed development is considered to be of acceptable form and scale consistent with the planned character and purpose of the Western Sydney Employment Area.
- f) In consideration of the considerations listed at (a) to (e) above the Panel considers the proposed development is a suitable use of the site and approval of the proposal will be in the public interest.

- B. When deferring the matter, the Panel also requested that more specific information as to the proposed solar panels should be provided by the applicant to address the issue of reducing carbon emissions associated with the development.
- C. On 24 February 2020, the Deputy Secretary of the Department of Planning, Industry & Environment issued a 'Satisfactory Arrangement Certificate' for the subject development, therefore satisfying Clause 29 of the State Environmental Planning Policy (Western Sydney Employment Area) 2009.
- D. On 16 March 2020, the Secretary of the Department of Planning, Industry & Environment issued a 'Confirmation of Satisfaction' for the subject development, therefore satisfying Clause 26 (3) of the State Environmental Planning Policy (Western Sydney Employment Area) 2009.
- C. Following that Certificate and Confirmation issuing, the panel has now received and reviewed the supplementary report of the Council assessment staff, and is now satisfied for the reasons set out in that report, and those foreshadowed on 16 December 2019 as recorded above, that the matters identified in its earlier report have been satisfactorily addressed, and that development consent is granted to development application DA/93.1/2019 for the Construction and Use of a Masonry Plant, Construction of Four (4) Industrial Warehouses, Estate Wide Earthworks, Infrastructure, Subdivision and Services at Lot 20 DP 1246626, 224-398 Burley Road, Horsley Park, the Grant Consent for the application subject to the conditions of consent recommended in the council assessment report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS



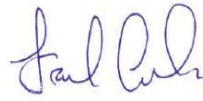
Justin Doyle (Chair)



Nicole Gurrán



Ninos Khoshaba



Frank Carbone

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019WCI022– Fairfield City Council – DA/93.1/2019
2	PROPOSED DEVELOPMENT	Construction and Use of a Masonry Plant, Construction of Four (4) Industrial Warehouses, Estate Wide Earthworks, Infrastructure, Subdivision and Services.
3	STREET ADDRESS	224-398 Burley Road, HORSLEY PARK (Lot 20 DP 1246626)
4	APPLICANT/OWNER	Austral Bricks Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No. 64 – Advertising and signage ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy No. 33 – Hazardous and Offensive Development ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ State Environmental Planning Policy (Western Sydney Employment Area) 2009 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Oakdale East Estate Development Control Plan • 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: 10 March 2020 • Written submissions during public exhibition: Nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> • Site inspection and briefing: 20 August 2019 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Nicole Gurran (Acting Chair), Mark Grayson, Bruce McDonald, Frank Carbone, Ninos Khoshaba ○ <u>Council assessment staff</u>: Jason Liang, Liam Hawke and Sunnee Cullen

		<ul style="list-style-type: none"> • Final briefing to discuss council's recommendation: 16 December 2019 • Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Bruce McDonald, Frank Carbone, Ninos Khoshaba ○ <u>Council assessment staff</u>: Jason Liang, Liam Hawke and Sunnee Cullen • Public Determination: 16 December 2019 • Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Bruce McDonald, Frank Carbone, Ninos Khoshaba ○ Verbal submissions made at the public meeting: <ul style="list-style-type: none"> ○ In Support – Nil ○ In Objection – Nil ○ Council assessment staff: Jason Liang, Liam Hawke and Sunnee Cullen ○ On behalf of the applicant: Guy Smith
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report