



DATE OF DETERMINATION	9 December 2022
DATE OF PANEL DECISION	9 December 2022
DATE OF PANEL MEETING	28 November 2022
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli, Ross Fowler, Carlie Ryan
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 21 November 2022.

MATTER DETERMINED

PPSSWC-229 – Penrith – DA22/0131 - 124 Lockwood Road, Erskine Park - Construction and 24/7 Operation of One Warehouse Development Containing Four (4) Tenancies Including Office Building, Landscaping, Hardstand, Loading Areas, Parking and Associated Drainage and Civil Works.

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

The panel determined to approve the application for the reasons outlined in the council assessment report. Notably:

- The proposed development for a warehouse is permissible with consent and considered consistent with the objectives for the IN1 – General Industrial zone under the SEPP (Western Sydney Employment Area). The proposal does not involve works on the portion of the site which is zoned C2- Environmental Conservation.
- The proposal is generally consistent with applicable controls under the Penrith Development Control Plan 2014. A relatively small portion of the building exceeds the maximum building height of 15m under Part E6 3.1 (Erskine Business Park) (reaching 17.1m) , but this is considered acceptable in this instance because the exceedance is limited to the front section of the building which is generally well articulated. Further, any visual impacts are minimised by tree planting and landscaping in the front setback area.
- Overall, the proposal, as amended, addresses key planning considerations relating to urban design, public amenity, biodiversity conservation, traffic, heavy vehicle manoeuvring, and parking.
- The proposal does not seek consent for the use of the premises which will be subject to future applications and assessment.
- The proposal will contribute to future employment opportunities in the area and is not considered to impose significant negative impacts on the surrounding neighbourhood.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments (which generally address landscaping requirements as well as the need for noise impact assessment to be undertaken in relation to future activities involving mechanical plants or equipment):

A. Delete from Condition 1:

“Fencing Plan, Drawing No. 12394_DA062, Issue 5, Prepared by Nettleton Tribe, dated 20 October 2022”

Reason: The conditions require an alteration to the fencing plan. Fencing will be regulated by Condition 2 (below)

B. Condition 2 is amended as follows:

“Prior to the issue of any Construction Certificate, the Landscape Plan (prepared by Cabbage Tree Landscape, Project No. 20210619, Issue DA_03D, Revision 10, dated 21 October 2022, submitted in support of the Development Application, is to be amended to incorporate the following **(or as may be agreed to in writing by the ~~Landscape Architectural Supervisor~~, Development Assessment Coordinator at Penrith City Council)**:

- Provision of additional street trees along the Lockwood Road frontage of the development site, to provide for trees at increments of approximately 10m.
- Provision of street trees along the full Compass Drive site frontage, utilising Bottlebrush species (or similar suitable species), at increments of approximately 8m.
- Blending the planting species allocation which are provided within the northern and eastern landscaped areas (i.e., rather than providing 2 distinctly varied landscaped type areas).
- The positioning of tree and shrub plantings are to consider the mature canopy cover / growth.
- A minimum of 40% tree canopy cover, is to be provided at maturity of the landscaping, over the total combined area of all car parking spaces and associated driveway areas, **excluding heavy vehicle loading areas**.
- Indicates that landscaped blister islands are spaced no further apart than 1 island per 10 car parking spaces, and that all islands are a minimum of 1.5m wide (internal) and contain a tree.
- Where tree roots are expected to grow beneath car parking / driveway or vehicle manoeuvring areas, engineered tree pits or vaults and aeration infrastructure, is to be provided and designed in accordance with design guidance provided in engineering design guidelines, the Penrith Street and Park Tree Management Plan and the Penrith Development Control Plan 2014.
- Trees and woody plants above 200mm high are to be positioned a minimum of 600mm back from the wheel stop, measured from their trunks, and low planting provided in the space between.
- Reference to ‘sandstone spall’ is to be deleted from the Landscape Specifications.

- Ground cover plantings are to be provided in areas alongside retaining walls, which are vacant.

- The amended plan shall detail fencing extents, locations, materials and heights and shall indicate that fencing is setback a minimum of 2m within the site's landscape setback. No barbed wire is permitted.

Reason: The upgraded fencing will make the site consistent with surrounding development and improve the appearance of the new development.

B. Condition 3 is amended to read:

~~**The following amendment shall be incorporated into the development:**~~

The existing chain link (galvanised steel type colour) fencing is to be **removed**. **All fencing for the site shall be in accordance with the Council approved plans as required by Condition 2 of this consent.**

~~**along the Compass Drive frontage, is to be replaced with 2.1m high black palisade type fencing (as proposed along the Lockwood Road frontage).**~~

Reason: For consistency with Condition 2.

C. Amend Condition 25 to read:

Prior to the issue of any Construction Certificate **for any portion of the development which provides for the installation of any mechanical plant or mechanical equipment**, a Noise Impact Assessment, which includes details on the type and location of all mechanical plant and equipment associated with the development, is to be provided to the Principal Certifying Authority for consideration and approval.

The Noise Impact Assessment is to be prepared by a suitably qualified acoustic consultant and is to provide suitable data and information to demonstrate compliance with applicable noise criteria.

For the purpose of this condition, a suitably qualified acoustic consultant, means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

Should no mechanical plant or mechanical equipment be installed as part of the development, the above information will not need to be submitted.

Reason: As agreed with the Applicant so that the acoustic report is only prepared where required.

D. Amend Condition 36

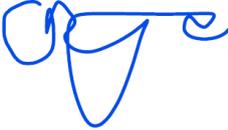
Prior to the issue of any Construction Certificate **for any works within the road reserve which require approval under the Roads Act 1993, including that which is**

listed below, a Section 138 Roads Act application, including payment of application fees.

Reason: As agreed in substance with the Applicant to clarify that a s.138 approval is only needed where required by the Roads Act.

CONSIDERATION OF COMMUNITY VIEWS

There were no submissions made by members of the community. One submission was received from Water NSW and this did not raise any objections to the proposal.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurran
 Louise Camenzuli	 Ross Fowler
 Carlie Ryan	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-229 – Penrith – DA22/0131
2	PROPOSED DEVELOPMENT	Construction and 24/7 Operation of One Warehouse Development Containing Four (4) Tenancies Including Office Building, Landscaping, Hardstand, Loading Areas, Parking and Associated Drainage and Civil Works.
3	STREET ADDRESS	124 Lockwood Road, Erskine Park
4	APPLICANT/OWNER	Applicant: Jamie Stewart Owner: N/A
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 (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Industry and Employment) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Precincts—Western Parkland City) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Western Sydney Employment Area) 2009 • Draft environmental planning instruments: Amendments to the State Environmental Planning Policy (Water Catchments) 2022 and e environmental Planning and Assessment (Water Catchments) Regulation 2022 were gazetted on Friday 21 October 2022. The amendments commence on 21 November 2022 • Development control plans: <ul style="list-style-type: none"> ○ Penrith Development Control Plan 2014 • Planning agreements: A Planning Agreement made between the Minister (administrating the Environmental Planning and Assessment Act 1979) and the Owner (of the site) applies to the land. Such relates to the portion of the site within the 'Erskine Business Park / Ropes Creek Riparian Biodiversity Conservation Area', being specifically limited to the 'C2 – Environmental Conservation' zoned land. The proposal does not involve any works within this portion of the site and therefore it is considered that the proposal is satisfactory in this regard. • 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: 21 November 2022 • Written submissions during public exhibition: 1

		<ul style="list-style-type: none"> • Additional correspondence from council (1 December 2022) summarizing and responding to communication from the applicant (29 November 2022) in relation to the draft conditions • Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 27 June 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Ross Fowler, Carlie Ryan ○ <u>Council assessment staff</u>: Robert Walker, Kathryn Saunders, Gavin Cherry • Final briefing to discuss council's recommendation: 28 November 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli, Ross Fowler, Carlie Ryan ○ <u>Council assessment staff</u>: Robert Walker, Kathryn Saunders, Gavin Cherry ○ <u>Applicant representatives</u>: Cameron Gray, Will Dwyer, Jamie Stuart
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report