

DATE OF DETERMINATION	20 November 2023
DATE OF PANEL DECISION	20 November 2023
DATE OF PANEL BRIEFING	16 October 2023
PANEL MEMBERS	Justin Doyle (Chair), Brian Kirk, David Kitto, Peter Harle
APOLOGIES	Ned Mannoun
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 13 October 2023.

MATTER DETERMINED

PPSSWC-280 – Liverpool – DA-872/2022 – 24-30 Alfred Road, Chipping Norton - Demolition of the existing structures, handstand areas, and removal of 9 trees, site remediation and earthworks, construction of two warehouses, hardstand area, 154 on-site car parking spaces, landscaping including the planting of 28 new trees, stormwater management and signage, use of the site for warehouse and distribution centres and light industries, with 24-hour operation

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at items 7 and 10, and the material presented at briefings listed at item 8 in Schedule 1.

In the final briefing, the Panel noted that the drainage/stormwater management concerns discussed in previous briefings had now been addressed to the satisfaction of both Sydney Water and Council and would be subject to suitable conditions under Council's recommended conditions.

The Panel queried several of the recommended conditions, particularly the inconsistencies between condition 5 and 116 which imposed restrictions on the use of the units created by the development. To address these queries, Council submitted revised draft conditions for the development to the Panel on 17 October 2023.

However, on 19 October 2023, Ethos Urban wrote to the Panel on behalf of the applicant seeking several amendments to Council's revised draft conditions.

Council reviewed these suggested amendments and submitted a further set of revised draft conditions for the development to the Panel on 7 November 2023 as well as a table with Council's comments on the applicant's suggested amendments.

In summary, Council has made 7 of the 10 suggested amendments. The suggested amendments rejected by Council are discussed in more detail below.

Identification Survey Report

Condition 70 restricts building works above ground level and the pouring of slabs until the PCA is satisfied that the construction plans for these works will comply with the approved plans, finished floor levels and setbacks to boundary/boundaries.

Once the slab has been poured, condition 71 restricts further building works above ground level until the PCA is satisfied that the slab has been poured at the approved levels.

The applicant argued these conditions were inconsistent with the proposed method of construction, as the steel frame, roofing and cladding of the buildings would be constructed before the slab is poured.

Council disagreed, saying the conditions have nothing to do with the construction method and were critical to ensuring the building works, and in particular, floor levels complied with the approved plans given the concerns about the potential drainage impacts of the development on surrounding properties.

The Panel agrees with Council. The applicant can comply with condition 70 prior to constructing the steel frame, roofing and cladding, and condition 71 once the slab has been poured.

Aircraft Noise

Condition 113 says the development is located within the Australian Noise Exposure Forecast (ANEF) 20 or greater contour and may be adversely impacted by aircraft noise. It therefore requires a suitably qualified acoustic consultant to certify that the development meets the relevant requirements of AS 2021: 2015 *Acoustics – Aircraft noise intrusion – building siting and construction with respect to interior noise levels* prior to the issue of an Interim or Final Occupation Certificate.

The applicant says the site is not located in the ANEF 20 or greater contour as identified on Sheet 14 of the Aircraft Noise Map under the *Liverpool Local Environmental Plan 2008*.

Although this is correct, there appears to be an error in the map.

Unlike the other sheets of the Aircraft Noise Map, Sheet 14 only shows the 25-30 and 30-35 contours but fails to show the 20-25 contour. This makes no sense from an acoustic perspective: it is impossible for aircraft noise to go from 25 to below 20 immediately. So, there should be a 20-25 contour on Sheet 14.

In the absence of a correct map showing the ANEF contours, however, it is impossible to determine for certain whether the development is located within the ANEF 20 or greater contour or not. Nevertheless, this is a factual question that can quite easily be determined post approval and should not delay the determination of the development application.

Condition 113 should be amended to say the aircraft noise requirements in the condition do not apply if the suitably qualified acoustic consultant demonstrates to the satisfaction of the PCA that the development is not located with the ANEF 20 or greater contour.

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 approved the application for the reasons in Council's Assessment Report.

In particular, the Panel concluded that:

- The development is consistent with the provisions of relevant environmental planning instruments, including the relevant requirements in the *Liverpool Local Environmental Plan 2008* and *Liverpool Development Control Plan 2008*;
- The likely impacts of the development are acceptable and can be suitably controlled with the recommended conditions;
- With the remediation required under these conditions, the site will be suitable for the development;
- The proposal will create employment in Western Sydney, consistent with the strategic objectives of the Western City District Plan;
- The site is in an existing industrial area and is suitable for the development; and
- The development is in the public interest.

CONDITIONS





The Development Application was approved subject to Council's revised conditions, dated 7 November 2023, with the following amendments.

- Replace the reference to condition 28 in condition 82 with condition 29 to ensure the correct cross-reference between conditions.
- Insert the following text following the first paragraph of condition 113:

These requirements do not apply if the suitably qualified acoustic consultant demonstrates to the satisfaction of the PCA that the development is not located with the ANEF 20 or greater contour.

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) 	Brian Kirk 
David Kitto 	Peter Harle 

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-280 – Liverpool – DA-872/2022
2	PROPOSED DEVELOPMENT	Demolition of the existing structures, hardstand areas, and removal of 9 trees, site remediation and earthworks, construction of two warehouses, hardstand area, 164 onsite car parking spaces, landscaping including the planting of 28 new trees, stormwater management and signage, use of the site for warehouse and distribution centres and light industries, with 24-hour operation.
3	STREET ADDRESS	24-30 Alfred Road, Chipping Norton
4	APPLICANT/OWNER	Applicant: The Trustee for AGIVF Chipping Norton Trust Owner: Perpetual Corporate Trust Limited
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 Liverpool Local Environmental Plan 2008 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Liverpool Development Control Plan 2008 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	<ul style="list-style-type: none"> Council Assessment Report: 13 October 2023, which was updated on 17 October 2023 and supplemented by Council's comments on the revised conditions, dated 7 November 2023 Written submissions during public exhibition: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Kick Off Briefing: 6 March 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), David Kitto <u>Council assessment staff</u>: Nabil Alaeddine, Amanda Merchant <u>Applicant representatives</u>: Andy Lloyd, Andrew Simpson, Gordon Kirkby, Lachlan Jones Council/Applicant Briefing: 22 May 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Brian Kirk, Peter Harle, Ned Mannoun

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Nabil Alaeddine, Amanda Merchant ○ <u>Applicant representatives</u>: Andy Lloyd, Andrew Simpson, Gordon Kirkby <ul style="list-style-type: none"> ● Council/Applicant Briefing: 9 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Brian Kirk, Peter Harle, Ned Mannoun ○ <u>Council assessment staff</u>: Nabil Alaeddine, Amanda Merchant ○ <u>Applicant representatives</u>: Gordon Kirkby ● Final briefing to discuss council's recommendation: 16 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Brian Kirk, Peter Harle, Ned Mannoun ○ <u>Council assessment staff</u>: Nabil Alaeddine, Amanda Merchant
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Council's revised conditions for the development, dated 7 November 2023