

DATE OF DEFERRAL	8 May 2023
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, David Kitto, Carlie Ryan
APOLOGIES	Ross Fowler
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 1 May 2023.

MATTER DEFERRED

PPSSWC-289 – Penrith – DA22/1080 - 68 Lockwood Road, Erskine Park - Construction of a Warehouse, Ancillary Office, Landscaping, Parking, Hardstands and Civil Works

REASONS FOR DEFERRAL

The panel agreed to defer the determination of the matter pending resolution of the outstanding issues set out below.

The Council's Assessment Report of 1 May 2023 identified the following outstanding concerns:

- The proposed setbacks of the building, awning, car parking areas and hardstand areas, to all three (3) street frontages, which do not provide for sufficient landscape screening.
- The inadequate level of articulation and variation to street facing elevations.
- The scale of the development, which provides a layout that is inconsistent with the building setback requirements to all three (3) street frontages and the maximum site coverage requirements, does not provide for an open streetscape with substantial landscaped areas, or for the enhancement of the urban landscape.
- Contribution to urban heat island effects, given the failure to provide shade trees within the open car parking areas or adequate tree canopy cover, and to demonstrate the provision of a sufficient rate of street trees or adequate soil volumes for tree planting areas.
- Incompatibility with the adjoining transport infrastructure routes.
- Ecologically sustainable development matters.
- Stormwater management matters.
- Clarity as to whether an Environmental Impact Statement is required and whether the development constitutes a 'State Significant Development'.

In response to the Council's Assessment Report, which recommends refusal of the development application as a consequence of the above matters, the Panel was provided with an advice prepared by the proponent's solicitor and a presentation summarising the proponent's response, including variations to the DA to address: adequacy of parking; building articulation; landscaping; setbacks; the Endeavour Energy easement; the heat island effect; and ecologically sustainable development.

The Panel now understands the primary outstanding issues to be:

1. Whether the application is for SSD?

The Panel understands that the current proposal is not for the two warehouses to be for the same "operation". This would otherwise result in the application being designated as SSD under s.12 of Schedule 1 of the Planning Systems SEPP. As the original SEE indicated that the warehouse could be used for one or two operations, the Applicant has agreed to write to the Panel to confirm that it is only seeking approval for a warehouse that would be used for two operations and another approval would be required to allow the warehouse to be used for one operation. This will clarify the jurisdictional issue. The Panel also

determined that a condition of consent should be prepared requiring that the warehouse be operated under two separate tenancies.

Action: Council to prepare a draft condition of consent to this effect for the Panel's consideration.

2. Proposed setbacks

Following the Council's RFI in relation to setbacks, the Applicant has provided the Council with amended plans that increased the setbacks to Lockwood Rd and Lenore Rd, by reducing the width of the hardstand area by a couple of metres. The Applicant's position is that the remaining setback encroachments are consistent with other approvals granted to the Applicant along Lenore Drive.

The Council's concern is that the deficiencies in the setbacks mean that there is insufficient screening to integrate the warehouse into the landscape and allow for road widening.

The Panel is satisfied that there is sufficient space for the proposed road widening and that the proposed landscaping is generally adequate. The Panel though queries whether the awning on Lockwood Rd encroaching into the setback can be articulated or broken up at a couple of points along its circa 150m+ length to make provision for further tall canopy tree planting to assist with ensuring integration of the warehouse into the landscape.

Action: The proponent to put forward a proposal that achieves this integration, or to otherwise establish to the satisfaction of the Panel (using elevations, photomontages or otherwise) that the current proposed planting already achieves this.

3. Tree canopy cover

The Applicant believes that the carpark, excluding the blister islands) now achieves the 40% canopy cover requirement in the DCP (Part 6.3.2). The Applicant has submitted supporting documents to the Council that it contends establishes compliance and demonstrate that there is adequate soil volume to support the trees.

Action: Council is to review the additional information provided by the Applicant and confirm whether it agrees with the Applicant that the numerical standard is now satisfied. If not, Council is to set out the points of difference in an Addendum Report for the Panels consideration.

4. Elevations and layout

Action: Council is to finalise its review of the revised elevations and update the Panel as to whether there are any outstanding concerns arising from the revisions to the Plans. The Council noted at the meeting that the revised plans do improve articulation.

5. Compatibility with infrastructure routes

Action: The Council has not re-referred any of the additional material provided late last week to the Department/TfNSW.

The Applicant indicated that TfNSW and the Department have previously been consulted regarding the road widening and land has previously been dedicated for the purpose of the road widening and no issue has otherwise been raised to date.

Action: The Applicant is to contact the Department/TfNSW to ensure that there is no objection to the proposed revised setbacks. If no response is forthcoming by the end of the week, the Council is to prepare a draft deferred commencement condition requiring this written confirmation for the Panel's consideration.

6. Engineering

The Panel queried whether the residual engineering concerns could be conditioned or the subject of a deferred commencement consent condition.

Action: Council to consider and prepare a condition of consent that addresses the outstanding engineering matters, if required, for the Panel's consideration.

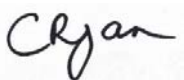
7. Other

Action: Council to address in the Addendum Report the position in relation to any other outstanding matters arising from the recommendation for refusal in the Council's Assessment Report or otherwise, along with any recommended conditions to address those matters for the Panel's consideration.

The Panel expects revised information as referred to above be submitted to Council within 3 days from the date of this deferral record. Council is requested to update its assessment and to prepare draft consent conditions within 1 week of the receipt of the revised information. If revised information from the applicant is not provided within the next two weeks, the Panel may move to determine the DA based on the information currently at hand.

The decision to defer the matter was unanimous.

The Panel understands that following the commencement of deemed refusal appeal proceedings, the application is listed for a section 34 conference on 18 May 2023, The Panel is minded to determine the matter favourably if the above matters can be satisfactorily addressed. Assuming this is the case, the Panel may be in a position to determine the matter electronically. An Addendum Report should otherwise be prepared setting out the outstanding differences between the Council's position and the proponent's position in relation to the application, along with a draft set of conditions, for the Panel's consideration.

PANEL MEMBERS	
Justin Doyle (Chair) 	Louise Camenzuli 
David Kitto 	Carlie Ryan 

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-289 – Penrith – DA22/1080
2	PROPOSED DEVELOPMENT	Construction of a Warehouse, Ancillary Office, Landscaping, Parking, Hardstands and Civil Works
3	STREET ADDRESS	68 Lockwood Road, Erskine Park
4	APPLICANT/OWNER	Fitzpatrick Investments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - 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 - Draft environmental planning instruments: Nil - Development control plans: - Penrith Development Control Plan 2014 - 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: 1 May 2023 - Written submissions during public exhibition: 0 - Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing: 13 March 2023 <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Carlie Ryan, Ross Fowler <u>Council assessment staff</u>: Kathryn Saunders, Robert Walker - Final briefing to discuss council's recommendation: 8 May 2023 <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Carlie Ryan, Ross Fowler <u>Council assessment staff</u>: Kathryn Saunders, Robert Walker, Gavin Cherry <u>Applicant representatives</u>: Jamie Stewart, Barton Cottle, Will Dwyer, Angus Hannam, Dan Brindle
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not Applicable