

MEMORANDUM

Reference: PPSSWC-289 (Council Reference: DA22/1080)

To: Sydney Western City Planning Panel

From: Robert Walker, Senior Development Assessment Planner

Date: 19 June 2023

Subject: Penrith City Council Response to Amended Plans and Additional Information – Proposed Warehouse Development at No. 68 Lockwood Road, Erskine Park

This memorandum is prepared further to Council's previous memorandum dated 16 May 2023 and in response to the 'Record of Deferral' issued by the Sydney Western City Planning Panel (SWCPP), dated 8 May 2023 and published on 17 May 2023.

On the 31 May 2023, the Applicant submitted amended plans and additional documentation through the NSW Planning Portal. The material included amended architectural drawings, an amended Landscape Plan, amended Civil Engineering Plans (including concept Stormwater Plan), a Bush Fire Assessment Report and an Operational Management Plan.

Council has undertaken an assessment of the amended plans and additional documentation, and it is advised that the proposal as amended remains unsupportable, given the following key design issues:

- The proposed setbacks and relationship of the building and awning, to all three (3) street frontages.
- 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.
- The failure to provide adequate landscape screening, a sufficient rate of street trees or adequate soil volumes for tree planting areas.

The amended architectural drawings maintain an overall layout, which is considerably non-compliant with key provisions in relation to building setback and site coverage. The proposed non-compliances remain insufficiently justified, and do not provide for a high standard of urban design or an overall development that contributes to a visually cohesive urban environment.

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Furthermore, it is noted that the proposed layout and landscaping scheme is inconsistent with the material that has been provided in relation to the Land and Environment Court matter which is in progress. Design gains which have been presented as part of the 'conciliation process' have not followed into the layout and landscaping design proposed by the Development Application.

Having regard to the aforementioned issues, it is recommended that the Development Application be refused for the reasons listed at Appendix B.

It is also noted that ongoing revisions are being advanced by the applicant on a without prejudice basis as part of section 34 conferencing which, are superior to what has been lodged via the NSW Planning Portal, and the subject of this further Memorandum.

Further to the above, the 'Record of Deferral' dated 8 May 2023, also included a request for draft conditions to be prepared in relation to various matters. Draft conditions as requested are listed at Appendix C.

List of Appendices

Appendix A – Council's response to SWCPP's 'Record of Deferral' published on 17 May 2023

Appendix B – Updated recommended reasons for refusal

Appendix C – Requested specific draft conditions

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APPENDIX A

Responses to primary issues listed within the SWCPP's 'Record of Deferral' published on 17 May 2023:

1. Whether the application is for 'State Significant Development'

The Applicant has submitted an Operational Management Plan, which outlines that the warehouse building comprises of two (2) separate tenancies. A draft condition is listed within Appendix C, in relation to 'Warehouse 1' and 'Warehouse 2' being used independently, as two (2) separate unrelated operations.

2. Proposed setbacks

The proposed 12.53m setback of the building to Lenore Drive, extends for an expansive length considerably within the applicable 20m minimum setback requirement of Part E6.3.3 of the Penrith Development Control Plan 2014.

The proposed 10.82m setback of the building to Compass Drive, extends within the applicable 15m minimum setback requirement of Part E6.3.3 of the Penrith Development Control Plan 2014.

The proposed setback of the awning to Lockwood Road (being a minimum of approximately 5m), extends for an expansive length considerably within the applicable 15m minimum setback requirement of Part E6.3.3 of the Penrith Development Control Plan 2014.

3. Tree canopy cover

The Applicant has demonstrated that open car parking areas are to be provided with a minimum 40% tree canopy cover, as required by Part C14.2.1.4 of the Penrith Development Control Plan 2014.

4. Elevations and layout

It is considered that the relationship of the street facing facades (including of the proposed awning) to all three (3) street frontages, are not adequately articulated, or varied. Furthermore, the overall relationship of the proposed development to the intersection of Lenore Drive and Compass Drive, is considered to be unsatisfactory from an urban design perspective and does not present a building form which is of adequate architectural or design merit.

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5. Compatibility with infrastructure routes

The Applicant has produced further correspondence from the Department of Planning and Environment in relation to referral comments, pursuant to Clause 2.25 of State Environmental Planning Policy (Industry and Employment) 2021 (for development on or in vicinity of proposed transport infrastructure routes). While it is noted that the Department of Planning and Environment raises no specific objection to the proposal, the correspondence outlines that the Department supports setbacks that closely align with Council's DCP.

6. Engineering

The amended plans and additional documentation, including the additional / amended Civil Engineering Plans and revised concept Stormwater Plan, has been considered by Council's Senior Engineer (Major Developments), who has found such to be satisfactory, subject to associated conditions being imposed on any such approval.

7. Other

It is advised that conditions could be imposed on any such approval, in relation to 'ecologically sustainable development' matters and in order to achieve sufficient water reuse.

Concern remains in relation to the configuration of the easternmost car parking area, which requires users to walk a significant distance along an open driveway area.

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APPENDIX B

Updated recommended reasons for refusal

1. The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as the proposal is in conflict with Objectives for the 'IN1 – General Industrial' zone, particularly given that the proposal fails to provide a high standard of development that does not prejudice the sustainability of other enterprises or the environment.
2. The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as the setbacks of the proposed development are incompatible with the immediately adjoining transport infrastructure routes, as required by the provisions of Section 2.25 (Development on or in vicinity of proposed transport infrastructure routes) of State Environmental Planning Policy (Industry and Employment) 2021.
3. The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as the development is not of sufficient quality and is incompatible with other employment generating development in the precinct, and therefore the proposal is inconsistent with the provisions of Section 2.30 (Design Principles) of State Environmental Planning Policy (Industry and Employment) 2021.
4. The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979, as the proposal does not comply with, or the application fails to demonstrate compliance with:
 - Part C1 (Site Planning and Design Principles),
 - Part C6 (Landscape Design),
 - Part C10 (Transport, Access, and Parking),
 - Part D4 (Industrial Development) and
 - Part E6 (Erskine Business Park)of the Penrith Development Control Plan 2014.
5. The application has failed to demonstrate that the proposal is satisfactory for the purpose of Section 4.15 (1) (b) of the Environmental Planning & Assessment Act 1979, in terms of potential and likely impacts, from an urban design and a landscape outcome perspective.
6. The Development Application is not satisfactory for the purposes of Section 4.15 (1) (c) of the Environmental Planning & Assessment Act 1979, as the site is not suitable for the proposed development.

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7. The Development Application is not satisfactory for the purposes of Section 4.15 (1) (e) of the Environmental Planning & Assessment Act 1979, as the proposed development is not in the public interest.

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APPENDIX C

Requested specific draft conditions:

1. Prior to the issue of any Construction Certificate, the following amendments are to be made. Amended plans are to be submitted to and approved by the Development Assessment Coordinator, Penrith City Council:
 - a) The northern wall of 'Warehouse 2' is to be relocated 8m southwards (to provide a minimum building setback to Lenore drive of 20.53m).
 - b) The vehicle maneuvering and turnaround area, and associated retaining walls, to the north-east of 'Warehouse 2', are to be relocated 8m southwards.
 - c) The depth of the super awning is to be reduced (by 16m) to a depth of 20m.
 - d) The fire sprinkler tank and the pump room (located adjacent to the office of 'Warehouse B'), are to be moved to the west, to provide additional space for landscaping.
 - e) The three (3) 'signage zones' are to be removed from the 'Elevations'.
2. Prior to the issue of any Construction Certificate, the Landscape Plan (prepared by Cabbage Tree Landscape, Project No. 20220901, Issue DA_02B, Revision 3, dated March 2023), is to be amended to incorporate the following and approved by the Development Assessment Coordinator, Penrith City Council:
 - a) Provision of common species names, mature heights and foliage spread of all plants, as required by Part F3.4.4.2 of the Penrith Development Control Plan 2014.
 - b) Revised building layout in accordance with the amended Architectural Plans as required by Condition No. 2.
 - c) Provision of additional landscaped areas and suitable plantings, within the increased building setback to be provided to the north of 'Warehouse B.'
 - d) Species within the landscape areas between the super awning and Lockwood Road, being selected having regard to the location's aspect.
 - e) Providing a mixture of tree species within the landscape areas between the super awning and Lockwood Road, that are of a range of mature height and to provide additional canopy screening.
 - f) The fencing and hedge planting, within the landscape areas between the super awning and Lockwood Road, are to be moved to the northern edge of such.
 - g) The tree species within the landscape strip immediately alongside the western / Compass Drive boundary, being suitable for its narrow area.
 - h) All trees within the landscape strip area between the car parking area and the western / Compass Drive boundary, are to be provided with 5m x 5m structural soil pits extending below the adjacent car parking spaces.
 - i) Provision of additional screen planting (which includes trees), in the vicinity of the vehicle maneuvering and turnaround area to the northeast of 'Warehouse 2', with species selected having regard to the constrained nature of the area.
 - j) Provision of an additional landscape area to the west of the office of 'Warehouse B,' with suitable species.
 - k) Provision of substantial additional quantities of medium and tall shrub plantings, within landscaped areas, in order to help soften the bulk and scale of the built form,

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- and to provide additional screening.
- l) The use of an appropriate street tree species, in lieu of *Eucalyptus amplifolia*, which is also suitable for constrained verge areas (where applicable).
 - m) Providing additional street trees along the frontage of the development site, particularly in the vicinity of the intersection of Lenore Drive and Compass Drive, that are spaced at 10m of approximate increments.
 - n) Indicates that landscaped blister islands (including associated structural soil pits) are spaced no further apart than 1 island per 6 car parking spaces.
 - o) Reference to 'sandstone spall' is to be deleted from the 'Landscape Specifications.'
 - p) Fencing within the street frontages is to be aligned and setback to minimise visual impact.
 - q) Specifications or elevations are to be provided of the fencing located within the street setback areas (being 2.1m high, black, palisade style).
3. 'Warehouse 1' and 'Warehouse 2' must be used independently as two (2) separate unrelated operations.
4. Prior to the issue of an Occupation Certificate for the building, all measures outlined within the Ecologically 'Sustainable Development Statement' submitted in support of the Development Application, are to be implemented and to be operational, to the satisfaction of the Principal Certifying Authority.