

DATE OF DETERMINATION	28 July 2023
DATE OF PANEL DECISION	27 July 2023
DATE OF PANEL BRIEFING	26 June 2023
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, David Kitto, Carlie Ryan, Ross Fowler
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 1 May 2023.

MATTER DETERMINED

PPSSWC-289 – Penrith – DA22/1080 - 68 Lockwood Road, Erskine Park - Construction of a Warehouse, Ancillary Office, Landscaping, Parking, Hardstands 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 briefings 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 to approve the DA was unanimous.

The Panel's assessment of relevant considerations identified by s 4.15 is recorded in the Panel's published Record of Deferral dated 26 June 2023.

The Panel notes that in its deliberations when voting whether to defer the DA at that time, the Panel deliberated separately to resolve its position in relation to aspects of the development regarding which there was dispute between the Applicant and the Council assessment staff. The Panel saw those matters as able to be addressed (if necessary) by condition. The issues were:

- A. Whether a design alteration to the proposed warehouse 1 was to be required by deferred commencement condition (or conditions) such that it would be required to be clear of both the 20 m DCP minimum setback to Lenore Drive and the 15 m setback to Compass Drive?
- B. Whether a design alteration to the proposed awning to Lockwood Road was to be required by deferred commencement condition to reduce the proposed awning out of the 15 m DCP minimum building setback?

The Panel in its assessment took separate votes in relation to those matters after hearing from both the Applicant and the Council, the results of which were not unanimous. Differently formed majorities of the Panel members voted respectively in favour of accepting the final DA design in relation to each matter considered, and the reasons of the majority on each concern identified by the Council staff is recorded in the consequent Record of Deferral.

The Panel is now unanimously of the view that it is appropriate to follow the majority position on each of the matters identified in the Deferral report, which was not to require strict compliance with the DCP setbacks in each instance.

The Panel voted to defer its determination of the DA at that time to allow the Council opportunity to respond to written reasons given by the Applicant for requesting that the conditions recommended in the reported assessment by Council staff be changed, and taking into account the Panel's preliminary thoughts about the draft conditions recorded in the Deferral Report.

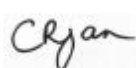
CONDITIONS

During the recent deferral period, documents have been submitted by both parties which have culminated in agreement as to the final conditions of consent dated 18 July 2023 as recommended by Council staff after taking into account the Applicant's position and the comments of the Panel in the Deferral Report (included as at Appendix A to this determination report).

After taking into account the matters discussed in the Deferral Report, and the parties' communications during the deferral period, the Panel resolves that the development consent granted should be subject to the conditions so agreed.

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) 	Louise Camenzuli 
David Kitto 	Carlie Ryan 
Ross Fowler 	

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 - Penrith Local Environmental Plan 2010 - 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 - List any council memo or supplementary report received: 6 April 2023, 17 May 2023, 19 June 2023, 19 July 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 - Panel members: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Carlie Ryan, Ross Fowler - Council assessment staff: Kathryn Saunders, Robert Walker - Applicant representatives: Jamie Stewart, Dan Brindle, Will Dwyer, Angus Hannam, Barton Cottle - Briefing Deferral: 8 May 2023 - Panel members: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Carlie Ryan, Ross Fowler

		- o <u>Council assessment staff:</u> Kathryn Saunders, Robert Walker, Gavin Cherry - o <u>Applicant representatives:</u> Jamie Stewart, Barton Cottle, Dan Brindle, Will Dwyer, Angus Hannam • Final briefing Applicant/Council: 26 June 2023 - o <u>Panel members:</u> Justin Doyle (Chair), Louise Camenzuli, David Kitto, Carlie Ryan, Ross Fowler - o <u>Council assessment staff:</u> Kathryn Saunders, Robert Walker, Gavin Cherry - o <u>Applicant representatives:</u> Jamie Stewart, Dan Brindle, Will Dwyer, Angus Hannam, Barton Cottle
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not Applicable