

DATE OF DETERMINATION	22 July 2024
DATE OF PANEL DECISION	22 July 2024
DATE OF PANEL BRIEFING	24 June 2024
PANEL MEMBERS	Justin Doyle (Chair), David Kitto, Louise Camenzuli, Karress Rhodes and Ned Mannoun
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 2 July 2024.

MATTER DETERMINED

PPSSWC-311 – Liverpool – DA-975/2022 - 575 Fifteenth Avenue, Austral - Concept Plan Approval for a warehouse and supporting uses development for the site that will be delivered in stages. The application also involves the construction of Stages 1A and 1B of the development that includes: subdivision to create three (3) industrial lots and two (2) residual lots for future roads; removal of trees and vegetation, demolition of existing structures, dam dewatering, and site remediation; civil works including bulk earthworks, construction of roads, stormwater drainage, temporary stormwater management basins and installation of services; and construction of two warehouses with 11 units with associated offices, signage and landscaping (as described in Schedule 1).

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 and the matters listed at item 8 in Schedule 1.

Setback to Fifteenth Avenue

Fifteenth Avenue is currently a Council road but is likely to become a State road in the future.

At this stage, Transport for NSW is still investigating the design requirements of the proposed road widening. The absence of these design requirements complicates the determination of this development application.

After extensive consultation, Council and Transport for NSW have agreed that a minimum setback of 20 metres should be provided for any future road widening.

While the proposal complies with the 20 metre setback, it does not include an additional 7 metre setback from the potential road widening road corridor to comply with the requirements in the *Liverpool Growth Centre Precincts Development Control Plan 2021*.

In the absence of a clearly defined road widening corridor, Council has recommended that the precise setback of development from Fifteenth Avenue be deferred to the development application for Stage 2 of the concept plan when there is likely to be greater certainty on the road widening corridor.

This will allow Stages 1 and 3 of the concept plan to proceed in the interim.

The panel supports this approach.

Height exceedances

The height limit of the site is 13 metres under Clause 4.3 of Appendix 4 of *State Environmental Planning Policy (Precinct – Western Parkland City) 2021* (Western Parkland SEPP).

Most of the proposal is below the height limit, but the northern end of the two warehouses are 16 metres and 14.8 metres high respectively, largely due to the existing slope of the site.

After considering a written request from the applicant to vary the height limit under Clause 4.6 of Appendix 4 of the Western Parkland SEPP, the panel concluded that the height exceedances would have minimal impact on the amenity of the surrounding area and are justified as they would facilitate the provision of high quality, modern warehouses with the flexibility to accommodate a wide range of uses on strategically located land in Western Sydney.

Consequently, the panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under Clause 4.6 of the Western Parklands SEPP;
- the development is consistent with the objectives of Clause 4.3 of the Western Parklands SEPP and the objectives for development in the IN2 Light Industrial zone;
- compliance with Clause 4.3 of the Western Parklands SEPP is unreasonable or unnecessary in the circumstances; and
- the exceedances are justified and in the public interest.

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 concept plan development application, including the development of stage 1 of the concept plan, subject to the reasons outlined in Council's Supplementary Assessment Report.

In particular, the panel concluded that:




- The development is consistent with the provisions of the relevant environmental planning instruments, including the requirements in Appendix 4 of *State Environmental Planning Policy (Precincts – Western Parkland City) 2021*, and the relevant controls in the *Liverpool City Council Growth Centre Development Control Plan*;
- The exceedance of the height limit in Clause 4.3 of the *State Environmental Planning Policy (Precincts – Western Parkland City) 2021* is justified and will have minimal impact on the amenity of the surrounding area;
- The impacts of the development are acceptable and can be suitably controlled with the recommended conditions;
- With the remediation required by the conditions of consent, the site will be suitable for the development;
- The development will provide a service station and convenience-based food and drink facilities to support the rapid growth in the area and increasing traffic volumes on Fifteenth Avenue;
- The development will support economic growth by generating employment and creating high quality warehouse and distribution centres on strategically-located land in Western Sydney; and
- The development is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in Council's Supplementary Assessment Report.

CONSIDERATION OF COMMUNITY VIEWS

Council exhibited the development application from 4 November 2022 to 5 December 2022 and received no public submissions.

PANEL MEMBERS	
 Justin Doyle (Chair)	 David Kitto
 Louise Camenzuli	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-311 – Liverpool – DA-975/2022
2	PROPOSED DEVELOPMENT	<p>Concept Plan Approval for a warehouse and supporting uses development for the site that will be delivered in stages.</p> <p>The application also involves the construction of Stages 1A and 1B of the development that includes: subdivision to create three (3) industrial lots and two (2) residual lots for future roads; removal of trees and vegetation, demolition of existing structures, dam dewatering, and site remediation; civil works including bulk earthworks, construction of roads, stormwater drainage, temporary stormwater management basins and installation of services; and construction of two warehouses with 11 units with associated offices, signage and landscaping.</p>
3	STREET ADDRESS	575, 585, 595-599 Fifteenth Avenue, Austral Lots 384 & 385 DP 2475 and Lot 8 DP 235953
4	APPLICANT/OWNER	<p>Applicant: The Trustee for The Austral Heights Discretionary Trust</p> <p>Owner 1: Austral Heights Pty Ltd; and</p> <p>Owner 2: Van Bao Nguyen, Thi Thom Nguyen and Thanh Cuong Nguyen.</p>
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"> SEPP (Precincts – Western Parkland City) 2021 SEPP (Resilience and Hazards) 2021 SEPP (Biodiversity and Conservation) 2021 SEPP (Transport and Infrastructure) 2021 SEPP (Industry and Employment) 2021 Draft environmental planning instruments: There are no draft EPIs applicable to the proposed development or subject site. Development control plans: <ul style="list-style-type: none"> Liverpool Growth Centre Precincts Development Control Plan 2021 Planning agreements: Nil Provisions of the Environmental Planning and Assessment Regulation 2021: A condition of consent is recommended requiring demolition of the existing structures on site to be carried out in accordance with AS 2601—2001: The Demolition of Structures. There are no other prescribed additional considerations in the EP&A Regulation relevant to this DA. Coastal zone management plan: There is no coastal management plan applicable to the site. 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: 27 May 2024 Council supplementary report: 1 July 2024 Clause 4.6 variation to Height of Buildings Written submissions during public exhibition: Nil

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Preliminary briefing: 24 April 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Karress Rhodes, Ned Mannoun ○ <u>Council assessment staff</u>: Nabil Alaeddine, Greg Mottram ○ <u>Applicant representatives</u>: Matt Cooper, Ash Farzam, Chris Avis • Assessment briefing: 19 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Karress Rhodes, Ned Mannoun ○ <u>Council assessment staff</u>: Nabil Alaeddine, Greg Mottram ○ <u>Applicant representatives</u>: Matt Cooper, Ash Farzam, Chris Avis, Michael Moroney • Final briefing to discuss council's recommendation: 3 June 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Karress Rhodes, Ned Mannoun ○ <u>Council assessment staff</u>: Nabil Alaeddine, Greg Mottram ○ <u>Applicant representatives</u>: Matt Cooper (GLN), Aris Dimos (five) • Supplementary briefing to discuss council's recommendations: 24 June 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Louise Camenzuli, Karress Rhodes, Ned Mannoun ○ <u>Council assessment staff</u>: Nabil Alaeddine, Andrijana Mijoski
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council supplementary assessment report