

DATE OF DEFERRAL	24 October 2024
DATE OF PANEL DECISION	24 October 2024
PAPERS CIRCULATED	4 October 2024
PANEL MEMBERS	Justin Doyle (Chair), David Kitto and Brian Kirk
APOLOGIES	None
DECLARATIONS OF INTEREST	Louise Camenzuli - Louise Camenzuli declared a conflict of interest as the firm she is employed at represents the applicant for a different site unrelated to this matter.

MATTER DEFERRED

PPSSWC-322 – Liverpool – DA-83/2023 at Zouch Road and Campbelltown Road, Edmondson Park -

Proposed subdivision of Lots 2, 3 and 5 DP1272931 into one hundred and fifty-eight (158) residential lots, eight (8) super lots for future medium density subdivision, two (2) lots for open space, two (2) drainage lots, one (1) residue lot for C1 zoned land and associated open space works, road works, drainage, stormwater infrastructure, services and remediation.

REASONS FOR DEFERRAL

Decision to defer

The Panel considered the matters listed at item 6, the material listed at item 7 and the material presented at the meetings and observed at the site inspection listed at item 8 in Schedule 1.

The Panel agreed to defer the determination of the matter to allow for the provision and assessment of the information concerning the issue of adequate financial provision for Council's costs of providing public amenities and public services and other infrastructure anticipated to be associated with the development

The decision to defer the matter was unanimous.

Resolution required of provision for public amenities and public services and other infrastructure

A final briefing was convened in this matter on 15 August 2024, following which the Panel deferred the determination of the development application to give Council and the Applicant more time to resolve two outstanding matters:

1. Conditions 33 and 36, relating to the scope of the required upgrades to Zouch Road; and
2. Conditions 133 and 134, which required the Applicant to pay monetary contributions towards provision or improvement of amenities or services for the development in accordance with the requirements in the approved Part 3A Edmondson Park South Concept Plan. Instead, the Applicant wanted the condition to require the Applicant to enter into a Voluntary Planning Agreement (VPA) with Council for the development in accordance with the terms of its VPA offer to Council on 9 July 2024.

On 2 September 2024, the Panel convened a further meeting with Council and the Applicant to discuss the Council's revised conditions for the development.

At the meeting, the Panel was advised that Council and the Applicant had agreed on the scope of the required upgrades to Zouch Road. However, the Applicant indicated that there were still two outstanding matters:

1. Condition 36(e), which requires the Applicant to pay 25% of the costs associated with installing traffic signals at the MacDonald Road/General Boulevard intersection. The Applicant says it should only be required to pay 6% of the costs consistent with the findings of its traffic assessment which predicts the development will only generate 6% of the traffic using this intersection in the future; and
2. Conditions 132 and 133 (the former Conditions 133 and 134), which read:

132. As a consequence of this development, Council identified an increased demand for public amenities and public services. Prior to the issue of a Subdivision Certificate, a Voluntary Planning Agreement is to be agreed to between Council and the Applicant, or a Letter of Undertaking or another legally binding instrument is to be provided by Landcom for any outstanding works the subject of this consent and subject to the Voluntary Planning Agreement.

Note: If in the scenario the VPA is withdrawn and/or will not be carried out, Section 7.11 development contributions are payable prior to a Subdivision Certificate. Evidence needs to be provided of an agreement between Council and the Applicant acknowledging that a VPA is withdrawn and/or will not occur.

133. Any works required under the VPA incorporating the pocket park, including public art, are to be completed within 12 months and 1 day from the issue of the subdivision certificate which creates the open space lot.

The Applicant wanted the note to the condition to be amended to allow any relevant works carried out on site to be discounted from any development contributions to be paid if the VPA does not proceed.

However, the Panel was critical of the drafting of the Condition 132 as it does not comply with the requirements for such conditions stipulated in Section 7.7(3) of the EP&A Act. Specifically, the condition if adopted would require the Applicant to enter a VPA with Council for the development but not in terms of the offer that has been made to the Council by the Applicant.

This is due to the fact that Council is still reviewing the terms of the Applicant's offer and is unwilling to commit to entering into a VPA on the terms offered by the Applicant at this stage.

The Panel again gave Council and the Applicant more time to try and resolve these matters.

In an email dated 20 September 2024, the Applicant advised the Panel that it now:

- Agrees to Condition 36(e); and
- Accepts Conditions 132 and 133 in their current form.

However, while that advice suggests progress in the discussions between the Council and the Applicant, it does not resolve the Panel's concerns about the current drafting of Conditions 132 and 133 and its consistency with the requirements for the payment of development contributions under Part 7 of the EP&A Act.

To resolve this issue, the Panel invites the following:

- (a) By Monday 28 October 2024, the Applicant is to:
 - submit the terms of any offer it wishes the Panel to consider under s 7.7(3) of the EP&A Act; and
 - justify why this offer is considered to be appropriate;
- (b) The Council is to submit any submission it wishes the Panel to consider in relation to that by 4 November 2024.

When in receipt of any material submitted in response to those invitations, the Panel expects to determine the DA after consideration of their contents and the material and assessment report already provided to the Panel.

Assessment of other relevant matters arising under s 4.15

Subject to resolution of the issue of financial provision for Council's costs of providing public amenities and public services and other infrastructure as discussed above, the Panel is otherwise unanimously of the view that the development is satisfactory having regard to the considerations identified by s 4.15 of the EP&A Act, having regard to Council's assessment report and supplementary assessment report which support that conclusion.

In particular, the Panel concluded that:

- The development is generally consistent with the Part 3A Edmondson Park South Concept Plan, which was approved by the then Minister for Planning in August 2011, despite the changes to the road layout of the proposed subdivision of the site which are required to accommodate the planned upgrade of Campbelltown Road;
- The development either complies with or is consistent with the provisions of the relevant environmental planning instruments, including the requirements in Appendix 1 of *State Environmental Planning Policy (Precincts – Western City Parkland)* and the *Edmondson Park South Development Control Plan 2012*;
- The relevant integrated approval authorities have provided their general terms of approval for the development, which have been incorporated into the recommended conditions;
- The impacts of the development are acceptable and can be suitably controlled with the recommended conditions;
- With the remediation required under the recommended conditions, the site can be made suitable for the development;
- Suitable arrangements are in place to provide infrastructure and services to the development;
- The development will complement the development of the Edmondson Park town centre by providing additional housing within walking distance of the railway station and regional open space for the growing population, consistent with the strategic planning objectives for the area; and
- The development is in the public interest.

CONSIDERATION OF COMMUNITY VIEWS


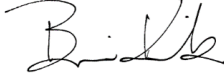

Council exhibited the development application from 5 April to 3 May 2023 and received 2 submissions.

These submissions raised concerns about the potential impacts of the development, which included:

- The new road to Zouch Road and through the site which would result in adverse traffic impacts on Denham Court;
- Traffic, noise and air quality impacts which would reduce the quality of life of the surrounding community;
- Negative impacts on environmental land;
- On street parking, especially for commuters and implementing parking restrictions;
- Concerns with road widths and traffic safety devices; and

- Road vehicle sizes for access, including heavy vehicles due to restricted right turns in future.

In assessing the considerations arising under s 4.15 of the EP&A Act, the Panel considered these concerns and is satisfied that they have been adequately addressed in Council's assessment report and recommended conditions.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Brian Kirk
 David Kitto	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-322 – Liverpool – DA-83/2023
2	PROPOSED DEVELOPMENT	Proposed subdivision of Lots 2, 3 and 5 DP1272931 into one hundred and fifty-eight (158) residential lots, eight (8) super lots for future medium density subdivision, two (2) lots for open space, two (2) drainage lots, one (1) residue lot for C1 zoned land and associated open space works, road works, drainage, stormwater infrastructure, services and remediation.
3	STREET ADDRESS	Lot 5 Campbelltown Road and Lots 2 & 3 Zouch Road, Edmondson Park Lot 2 DP 1272931, Lot 3 DP 1272931 & Lot 5 DP 1272931
4	APPLICANT/OWNER	Landcom
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ 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 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Edmondson Park South Development Control Plan 2012. • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil • 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: 9 July 2024 • Supplementary assessment report: 28 August 2024 • Written submissions during public exhibition: 2 • Total number of unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Preliminary Briefing: 15 May 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: David Kitto (Acting Chair), Karress Rhodes, Ned Mannoun ○ <u>Council assessment staff</u>: Robert Micallef, Nabil Alaeddine, Amanda Merchant, Michael Oliviero, William Attard ○ <u>Applicant representatives</u>: Jared Marsh, James Arena, Michael Rodger • Briefing: 24 July 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Brian Kirk, Karress Rhodes ○ <u>Council assessment staff</u>: Nabil Alaeddine, Amanda Merchant

		<ul style="list-style-type: none"> ○ <u>Applicant representatives</u>: Michael Rodger, Jared Marsh, Kerry Simone • Briefing: 31 July 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Brian Kirk, Karress Rhodes ○ <u>Council assessment staff</u>: Nabil Alaeddine, Amanda Merchant, Michael Oliviero, William Attard ○ <u>Applicant representatives</u>: Michael Rodger, Jared Marsh, Kerry Symonds • Site inspection: 20 May 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto ○ <u>Council assessment staff</u>: Robert Micallef, Nabil Alaeddine • Final briefing to discuss council's recommendation: 15 July 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Brian Kirk, Karress Rhodes, Ned Mannoun ○ <u>Council assessment staff</u>: Robert Micallef, Nabil Alaeddine, Amanda Merchant Michael Oliviero, William Attard, Anna Johnston, Andrijana Mijoski ○ <u>Applicant representatives</u>: Jared March, Kerrie Symonds • Further briefing to discuss council's revised conditions: 2 September 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Brian Kirk, Karress Rhodes, Ned Mannoun ○ <u>Council assessment staff</u>: Robert Micallef, Nabil Alaeddine, Amanda Merchant ○ <u>Applicant representatives</u>: Jared March, Kerrie Symonds, Megan Angelo
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to Council's assessment report and as amended