

MINUTES AND DETERMINATION OF THE LIVERPOOL LOCAL PLANNING PANEL MEETING

Monday, 30 September 2024

Held online via
MS Teams

Panel:

John Cole (Chair)
Brian Kirk (Expert)
Vanessa Holtham (Expert)
Stuart Mangleson (Community Representative)

There were no conflicts of interest declared by any panel members in relation to any items on the agenda.

Speakers:

Item 1 – DA-187/2024

- Jude Urbanik - Willowtree Planning - (Planner on behalf of Applicant)
- Stephen Albin – Animal Welfare League NSW – (Applicant)

Item 1 – DA-13/2024

- Mohamed El-Hassan - Linea Verde Design Pty Ltd (Applicant)
- Abdullah Tabikh - A S Investment Company Pty Ltd (Owner)

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ITEM No:	1
APPLICATION NUMBER:	DA-187/2024
SUBJECT:	Demolition of several existing structures at the site being office, dog kennels (old), pet cemetery, vet clinics, aviary, storage shed 2, stable, multiple sheds on paddocks.
LOCATION:	45 Herley Avenue, Rossmore NSW 2557
OWNER:	NSW Animal Welfare League
APPLICANT:	NSW Animal Welfare League
AUTHOR:	Lawrence Fowle, Patch Planning

DETERMINATION OF PANEL:

Development Application DA-187/2024 is approved subject to the draft conditions of the consent as recommended by the Council Officer with the following amendments:

1. Condition 32 to be renumbered to Condition 28
Removal of dangerous and/or hazardous waste

All dangerous and/or hazardous material must be removed by a suitably qualified and experienced contractor licensed by SafeWork NSW. The removal of such material must be carried out in accordance with the requirements of SafeWork NSW and the material must be transported and disposed of in accordance with NSW Environment Protection Authority requirements.

The removal of all dangerous and/or hazardous material that is separate from the built structures approved to be demolished, shall be carried out prior to demolition of any building or structures under this development Consent.

2. Condition 43 to be renumbered to Condition 37
Erosion Control Stabilisation

All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for a period of greater than 14 days.

During demolition work the land shall generally maintain its existing contours and resculping the land is not approved under this Development Application.

3. D. ADVISORY

(m) A detailed site investigation (DSI) may be required under the Resilience and Hazards SEPP for the future redevelopment of the site.

4. Reformat the number of conditions from 63 to 55.

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ITEM No:	2
APPLICATION NUMBER:	DA-13/2024
SUBJECT:	Proposed two-lot Torrens Title subdivision with the construction of two attached Dual Occupancies and home-based childcare
LOCATION:	76 Pleasure Point Road, Pleasure Point NSW 2172
OWNER:	A S Investment Company Pty Ltd
APPLICANT:	Linea Verde Design Pty Ltd
AUTHOR:	Emily Lawson

DETERMINATION OF PANEL:

Development Application DA-13/2024 is refused for the following reasons:

1. The application is for Integrated Development. Pursuant to Section 4.47 of the Environmental Planning and Assessment Act 1979, consent cannot be granted as the concurrence from Rural Fire Service (RFS) pursuant to Clause 100b of the Rural Fires Act 1997, has not been obtained.
2. The proposed development is inconsistent with the provisions of State Environmental Planning Policy (Resilience and Hazards) 2021. Insufficient evidence has been submitted to satisfy the consent authority that the land is or will be suitable for the purpose for which the development is to be carried out.

Note: A Stage 2 Detailed Site Investigation Report and a potential Remediation Action Plan is required to be submitted to satisfy Council to determine if the site is suitable for the proposed use, pursuant to Sections 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

3. The proposed development is not considered acceptable in terms of the submitted Flora and Fauna Report in respect to the principles of ecologically sustainable development, Part 6 Biodiversity Offset Scheme and Part 7 Biodiversity assessment and approvals under Planning Act pursuant to the Biodiversity Conservation Act 2016.
4. The proposed development does not comply with Clause 4.1 Minimum Lot Size pursuant to the Liverpool Local Environmental Plan 2008 and is inconsistent with Clause 4.6(6) Exceptions to development standards, which prohibits subdivision of land less than the required 90% of the minimum. The proposed development is considered unacceptable pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
5. The proposed development does not comply with Clause 4.3 Height of Buildings pursuant to Liverpool Local Environmental Plan 2008. The application is not supported by detailed plans to allow for appropriate assessment of the proposal. The plans identify the development may exceed the prescribed height of buildings. Furthermore, the Applicant has not demonstrated that any contravention of this development

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standard is satisfactory pursuant to Clause 4.6(3) of the Liverpool Local Environmental Plan 2008.

6. The proposed development is inconsistent with Clause 5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones of the Liverpool Local Environmental Plan 2008, the applicant has not provided suitable or suitable mitigation measure to respect the C2 Zone, whilst also the proposals impact to neighbouring properties is not appropriate, pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
7. The proposed development is inconsistent with Clause 7.6 Environmentally significant land of the Liverpool Local Environmental Plan 2008, the applicant has not submitted an appropriate Flora and Fauna Report to assess the environmental significant land and bushfire land, pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
8. The proposed development is inconsistent with Clause 7.31 Earthworks pursuant to the Liverpool Local Environmental Plan 2008, insufficient information has been provided to determine the extent of earthworks proposed pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
9. The proposed development is inconsistent with the objectives of the R5 Large Lot Residential Zone of the Liverpool Local Environmental Plan 2008, due to the mischaracterisation of the development and impact the proposed built form will have pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979. The information provided does not establish the Home based child care use to be permissible.
10. The proposed development is inconsistent with the objectives of the C2 Environmental Conservation Zone of the Liverpool Local Environmental Plan 2008, as the applicant has not satisfactorily considered the impacts of the built form on the zone, pursuant to Section 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
11. The proposed development fails to demonstrate compliance with and does not satisfy Chapter 2 Vegetation in Non-rural areas of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 pursuant to Sections 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
12. The proposed development fails to demonstrate compliance with and does not satisfy Chapter 4 Koala Habitat Protection 2021 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 pursuant to Sections 4.15(1)(a)(i), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
13. The proposed development is not considered acceptable in terms of Clause 251 of the Environmental Planning and Assessment Regulations 2021, in which the lodged cost of work is inconsistent with the amended cost of works submitted, and therefore raises fundamental concerns the proposal costs is not genuine or accurate.
14. The applicant has failed to demonstrate the site is adequately able to be serviced by the provision of appropriate provision of water and wastewater services from Sydney Water.
15. The proposed development does not achieve satisfactory compliance with the controls stipulated in the Liverpool Development Control Plan 2008, Part 1 – General Controls

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for all Development, pursuant to Section 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, in terms of the following sections:

- a. Section 2 – Tree Preservation
- b. Section 3 – Landscaping and Incorporation of Existing Trees
- c. Section 4 – Bushland and Habitat Preservation
- d. Section 5- Bushfire Risk
- e. Section 8 Erosion and Sediment Control
- f. Section 10- Contaminated Land Risk.
- g. Section 15 – Onsite Sewage Disposal
- h. Section 20: Car Parking and Access.
- i. Section 21 Subdivision of land and buildings

16. The proposed development does not achieve satisfactory compliance with the controls stipulated in the Liverpool Development Control Plan 2008, Part 2.13 Land Subdivision in Pleasure Point pursuant to Section 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, in terms of the following sections:

- a. Section 2.6 Bushfire Protection

17. The proposed development does not achieve satisfactory compliance with the controls stipulated in the Liverpool Development Control Plan 2008, Part 3.1 – Dwellings in the R5 Zone –pursuant to Section 4.15(1)(a)(iii), 4.15(1)(b) and 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, in terms of the following sections:

- a. 2.Site Planning
- b. 3. Setbacks
- c. 4. Landscaping and Private Open Space
- d. 5. Cut and Fill, building design, streetscape and layout
- e. 6. Landscaping and Fencing
- f. 8. Amenity and Environment
- g. 10. Additional Requirements – Dual Occupancies in R5 Zone

18. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development has not adequately demonstrated the likely impacts of the development, and otherwise, based on the information submitted, is likely to have an adverse impact in terms of the following:

- a) Natural Environment - the applicant has not demonstrated the proposed development would not create a detrimental impact on the natural environment, primarily to the conservation zone which dominates the site.
- b) Built Environment - the proposed development is undesirable in character, both in the existing low density residential environment would likely result in significant adverse impacts on the residential amenity of adjoining private land through visual amenity, design, bulk and scale in terms of the interface with the conservation zone including the site's layout and extent of site coverage, is considered an overdevelopment.
- c) Social Impact - the proposal lacks an aesthetic which could with a better design contribute to the social fabric of the locality as is required by development within the zone, and the detrimental material impacts on adjoining land would set an undesirable precedent and would likely undermine the intent of zone objectives in maintaining residential amenity.

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19. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is considered to be an ill-conceived design, has not adequately demonstrated the suitability of the site for the development.
20. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposal is not considered to be in the public interest, having regard to the above reasons of refusal, and that undermining the zone objectives and surrounding character and context in such a way would risk allowing an undesirable precedent for other poorly designed development within the locality, in the future.

ADVISORY NOTES

- a) Section 8.2 of the EP&A Act provides that an applicant may request, within six (6) months of the date of the determination of the Development Application, that Council review its determination (this does not relate to designated development or Crown development).

An application under Section 8.2 of the EP&A Act cannot be reviewed/determined after 6 months of the date of determination. Therefore, the submission of a Section 8.2 Application must allow sufficient time for Council to complete its review within the prescribed timeframe, including the statutory requirement for public notification.

- b) Section 8.7 and 8.9 of the EP&A Act provides that an applicant who is dissatisfied with the determination of a Development Application, may appeal to the Land and Environment Court within six (6) months of the date of determination, or as otherwise prescribed by the EP&A Act.

VOTING NUMBERS:

4-0