

JRPP Number	2011SYW008
Application Number	DA10/1329
Applicant	Green Box Architecture
Proposed Development	Data Centre
Property Address	Nos.1-23 Templar Road ERSKINE PARK
Property Description	Lot 2 DP 1094504
Date Received	24 December 2010
Assessing Officer	Gurvinder Singh
Category of Development	Integrated Development
Recommendation	Approval

Assessment Report and Recommendation

Executive Summary

Council is in receipt of a Development Application for the construction of an industrial building for a data centre with associated office, car parking and landscaping.

The land is partly zoned IN1 General Industry and E2 Environmental Conservation under the provisions of State Environmental Planning Policy (Western Sydney Employment Area) 2009. The proposed development is to be located on the IN1 section of the site. The existing biodiversity corridor along the front boundary of the site is zoned E2 Environmental Conservation. The proposed development is permissible in the zone under the definition of a 'warehouse or distribution centre' as the use will involve the storage of data and its sale to prospective clients.

The proposed development has a 'capital investment value' (CIV) of \$24 million. Given that the CIV is in excess of \$10 million, the development application is to be determined by the Joint Regional Planning Panel – Sydney West pursuant to Part 3 - Regional Development of the State Environmental Planning Policy (Major Development) 2005.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval subject to conditions of consent.

Background

Various development consents granted over the site are described below:

- DA04/1599 for a three (3) lot torrens title subdivision of Lot 93, DP 838541 which had created the subject Lot 2.
- DA255_10_2004i for part of Lot 93 corresponding with the subject Lot 2 for BlueScope Steel Limited approved by the Minister for Planning.
- DA07/0710.03 proposing a three (3) lot torrens title subdivision approved 24 July 2007. This consent is currently valid, however has not been activated.
- Proposed Industrial Warehouse with ancillary office, car parking, signage and use by McArthur Express DA07/0709.01 approved 14 September 2007.
- Proposed Data Centre for Fujitsu DA09/1323 approved by the Joint Regional Planning Panel – Sydney West at its meeting on 25 March 2010 (2010SYW006). The approved development has not been activated.
- DA10/0938 Staged Development - Three (3) x Warehouse Distribution Buildings approved by the Joint Regional Planning Panel – Sydney West on 14 December 2010 (2010SYW064). The approved development has not been activated.

The Department of Planning has approved a Data Centre building on the land north of Lenore Drive immediately opposite to the subject site for Woolworths Limited (MP 08_0109).

The proposed development will be located on the north-eastern section of the subject site. The applicant has advised that the three (3) lot subdivision by virtue of DA07/0710.03 will be activated in the near future so as to excise the subject development site for future development.

Site and Surrounds

The site is located on the south east corner of the intersection of Lenore Drive and Templar Road Erskine Park (See Figure 1). The site is currently vacant with a total area of 7.615 hectares. A biodiversity corridor is located along the front boundary (Lenore Drive) which contains a variety of mature trees and shrubs.

The surrounding development is mainly industrial. The nearest residential area is located around 500m north of the site.

Figure 1 - Aerial view of the surrounding area.

Proposed Development

The key elements of the proposed development are summarised below:

Component	Description
<i>Proposed Development</i>	Construction of an Industrial Building for a Data Centre and associated office, car parking and landscaping
<i>CIV</i>	\$24 million
<i>Consent Authority</i>	Joint Regional Planning Panel – Sydney West

Building	Total floor area of 8669m ² with a maximum height of 15 metres.
	Constructed of pre-cast concrete panels with a metal roof
	A maximum front setback of 38.43 metres to Lenore Drive of which contains the existing biodiversity corridor. A side setback of 24.69 metres from Templar Road. A 3.0 metre high mesh fence would be provided within the landscaped areas addressing Templar Road and Lenore Drive Erskine Park.
	The proposed building will have four data halls on the ground floor. The first floor will be constructed of a concrete suspended slab. It will have office areas to the east of the building and generators to the west of the building. The air conditioning equipment is spread uniformly across the rest of this floor.
	Store rooms on the eastern side of the facility to be used for storing maintenance equipment and staging equipment deliveries. A small waste storage area will also be provided for the building to accommodate all site waste prior to removal.
Office	The office is located to the east on the first floor of the proposed building.
Car Parking	A total of 50 car spaces are proposed on-site.
	Separate access and egress points from Templar Road are proposed for trucks. Car access is proposed from another point on Templar Road which is separate from that for trucks.
Landscaping	Landscaping will be provided along the north and east setbacks ensuring the screening of all proposed car parking and a portion of the proposed building at ground level when viewed from Lenore Drive.
	Welded mesh fencing is proposed along the Lenore Drive and Templar Road frontage and is setback within the landscaped area.
Construction and Operation	Construction will be undertaken over a 12 month period.
	Staff within the warehouse will operate and maintain equipment on a 24 hour, 7 day/ week basis.
	A total of 42 staff will be employed as part of the development. These staff will operate on a 24 hour basis in a 12 hour shift rotation.

A site plan and elevations are included in Attachment 1.

The following reports have accompanied the subject Development Application and used throughout the planning assessment: -

- Statement of Environmental Effects prepared by [Moody and Doyle Pty Ltd](#) dated December 2010
- Noise Impact Assessment prepared by AECOM Pty Ltd, dated 23 December 2010; and
- Waste Management Plan prepared by Green box Architecture dated December 2010

Statutory Assessment

The following planning instruments have been considered in the planning assessment of the subject Development Application: -

- State Environmental Planning Policy (Western Sydney Employment Area) 2009;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No.33 – Hazardous and Offensive Development;
- Sydney Regional Environmental Plan No.20 – Hawkesbury/Nepean River;
- Penrith Development Control Plan 2006

The development has been assessed in accordance with the matters for consideration under Sections 91 and 79C of the Environmental Planning and Assessment Act 1979 as follows: -

Section 91 – Integrated Development

The proposed development required a controlled activity approval from the NSW Department of Environment Climate Change and Water (DECCW) under the Water Management Act 2000 for works within 40m of a watercourse. The general terms of approval have been issued by the DECCW and they are attached to this report.

Section 79C(1)(a)(i) – Any Environmental Planning Instrument

(a) State Environmental Planning Policy (Western Sydney Employment Area) 2009

The State Environmental Planning (Western Sydney Employment Area) 2009 (SEPP WSEA) aims to promote economic development and the creation of employment in the Western Sydney Employment Area. The plan provides for the co-ordinated planning and development of land to improve certainty and an efficiency regime for future development and infrastructure provision.

Permissibility

The subject development site is part zoned IN1 General Industry and part E2 Environmental Conservation under the provisions of SEPP WSEA (See Figure 2). The proposed development is to be located on the IN1 section of the site. The existing biodiversity corridor along the front property boundary of the site is zoned E2 Environmental Conservation with no work proposed within this E2 portion.

The proposed development is defined as a ‘Warehouse or distribution centre’ as follows: -
“warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.”

The proposed data centre will store data for Digital Realty Data Firm. The stored data will be sold to third parties. On this basis, the proposed development is consistent with the land use definition and is therefore permitted with consent.

Figure 2 - Zoning Map

Objectives of the zones

The objectives of the IN1 zone are as follows: -

- *To facilitate development for a wide range of employment-generating industrial, manufacturing warehousing, storage or research purposes, including ancillary office space.*
- *To encourage employment opportunities along motorway corridors, including the M7 and M4.*
- *To minimise any adverse effect of industry on other land uses.*
- *To facilitate regional road network links to the M7 and M4 Motorways.*

The proposed development will generate up to 42 new employment opportunities for the Penrith Local Government Area which is in the spirit of the employment generating nature of Erskine Business Park. It will have access to Erskine Park Road via Lenore Drive. Once Lenore Drive is extended to the M7, the proposed development will have ease of access to the M4/M7 Motorways.

The proposed development meets the objectives of the IN1 zone.

The objectives of the E2 zone are as follows: -

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

The proposed development does not involve any works to the existing biodiversity area. Additional landscaping behind the existing biodiversity corridor is proposed to continue the aesthetic value of the area and therefore it is considered that this embellishment of the area is consistent with the objectives of the E2 zone.

Principal Development Standards

The SEPP WSEA contains a number of principal development standards which are discussed with respect to the proposal as follows: -

DEVELOPMENT STANDARD	REQUIREMENT	COMMENT
Clause 18 - Requirement for development control plans	The “Erskine Park Employment Area” section under the <i>Penrith Development Control Plan 2006</i> (approved	Noted. Assessment against the DCP is made later in this report.

	21 August 2006 and as in force on 15 December 2006) applies to the site.	
Clause 20 - Ecologically sustainable development	The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that the development contains measures designed to minimise: (a) the consumption of potable water, and (b) greenhouse gas emissions.	The proposed development will involve the installation of rainwater tanks to harvest rainwater for use in irrigation. Section J – Energy Efficiency of the Building Code of Australia requires various energy saving measures for the building which will reduce green house gas emissions.
Clause 21 – Height of buildings	The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that: (a) building heights will not adversely impact on the amenity of adjacent residential areas, and (b) site topography has been taken into consideration.	The proposed building will have a height varying from 6 to 15 metres which is consistent with other existing buildings in the area. Based on the physical distance and the built environment of the surrounding area, it is considered that the proposed building will not adversely affect the amenity of adjacent residential areas.
Clause 22 - Rainwater harvesting	The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that adequate arrangements will be made to connect the roof areas of buildings to such rainwater harvesting scheme (if any) as may be approved by the Director-General.	The proposed development would incorporate rainwater harvesting facilities for the site. No local or regional rainwater harvesting scheme exists within Erskine Business Park and is therefore not applicable.
Clause 23 - Development adjoining residential land	This clause applies to land that is within 250 metres of land zoned primarily for residential purposes. Council must be satisfied that matters relating to visual amenity, noise generation, traffic, parking and	The subject site is located more than 250 metres from the residential area to the north. Therefore, Clause 23 is not applicable.

	landscaping are compatible with the surrounding residential area.	
Clause 25 – Public utility infrastructure	The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.	The site is well serviced in regard to existing public utility infrastructure. All services are readily available.
Clause 26 - Development on or in vicinity of proposed transport infrastructure routes	The consent authority must, before determining any such development application, consider any comments made by the Director-General as to the compatibility of the development to which the application relates with the proposed transport infrastructure route concerned.	The site is not located adjacent to a proposed transport infrastructure route. It is located adjacent to a constructed section of Lenore Drive
Clause 29 - Industrial Release Area—satisfactory arrangements for the provision of regional transport infrastructure and services	The consent authority must not consent to development on land to which this clause applies unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network)	The Director General has advised that satisfactory arrangements have been made (see attachment 3).
Clause 31 – Design principles	In determining a development application that relates to land to which this Policy applies, the consent authority must take into consideration whether or not: (a) the development is of a high quality design, and (b) a variety of materials and external finishes for the	The proposed building has been architecturally designed to a high standard to ensure that it presents to Lenore Drive and Templar Road. An appropriate level of colour and material variation has been incorporated into the design to articulate the

	external facades are incorporated, and (c) high quality landscaping is provided, and (d) the scale and character of the development is compatible with other employment-generating development in the precinct concerned.	facade. High quality landscaping incorporating native species as defined in Council's DCP is proposed. The scale of the proposed development is consistent with other development in the Erskine Business Park locality.
Clause 32 - Preservation of trees or vegetation	The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.	The site was cleared as part of the initial bulk earthworks activities to bench the site. The site does not contain any natural vegetation. The biodiversity area would be retained as part of the proposed development.

(b) State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 provides direction for proposed development to be considered by the relevant public authorities with the opportunity to be made aware of proposed development listed in the schedules and any representation in respect to proposed development.

Clause 104 of the SEPP provides for traffic generating development and provides in part as: -

“104 - Traffic-generating development

(1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:

- (a) new premises of the relevant size or capacity, or*
- (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

The subject application would be suitably defined as ‘Industry’ for the purposes of Clause 104 of the SEPP. However, the proposed development does not activate the above requirements given that the site does not adjoin a classified road nor it is within 90 metres of connection.

Notwithstanding, Council’s Senior Traffic Officer has reviewed the proposal and raises no objection with respect to traffic and parking generation.

Accordingly, the proposal is consistent with the provisions of the SEPP.

(c) State Environmental Planning Policy No.33 – Hazardous and Offensive Development

State Environmental Planning Policy No.33 – Hazardous and Offensive Development (SEPP 33) aims to identify measures to be employed to reduce the impact of the development, to ensure sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact.

The document entitled ‘Applying SEPP 33 – Hazardous and Offensive Development’ published by the Department of Planning is used to determine whether SEPP 33 applies to the proposed development. For the purposes of the proposed development, diesel fuel is classed as a Class C1 dangerous good.

The proposal involves the installation of diesel generators that are required to provide back-up power to the proposed data centre in the event of power failure. Diesel will be stored in underground storage tanks located on the western side of the proposed building. A condition of consent has been recommended that requires the underground storage tanks to be installed in accordance with the relevant Australian Standards: -

- AS1940 - Storage and Handling of Flammable and Combustible Liquids; and
- AS4897 - The design, installation and operation of underground petroleum storage systems.

The installation of tanks would be required to meet the statutory requirements of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 under the Protection of the Environment Operations Act 1997

“If Class C1 and/or Class C2 are present on site and are stored in a separate bund or within a storage area where they are the only flammable liquid present they are not considered to be potentially hazardous. If, however, they are stored with other flammable liquids, that is, class 3PGI, II or III, then they are to be treated as Class 3PGIII, because under these circumstances they may contribute fuel to a fire.”

The proposed development would store and handle only diesel which is identified as a C1 Combustible Liquid. The storage of diesel fuel itself is therefore not considered to be not ‘potentially hazardous’ and therefore a Preliminary Hazard Analysis (PHA) is not considered necessary as part of the assessment.

(d) Sydney Regional Environmental Plan No.20 – Hawkesbury/Nepean River

Sydney Regional Environmental Plan No.20 – Hawkesbury/Nepean River (SREP) applies to the subject land and stipulates that the consent authority shall not grant consent to an application unless it is of the opinion that the carrying out of the development is consistent with any relevant, general and specific aim of the SREP.

Consideration of the relevant planning strategies have been made and discussed in the following: -

Cultural Heritage

The subject site has not been identified to contain any items of heritage. A cottage identified in the Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation) was

located on John Morphett Place which is sited substantially away from the subject site. The proposal is unlikely to have an adverse visual impact on the nearby heritage item.

Urban Development

The subject site has connection to essential services including water, sewer, electricity etc. Appropriate conditions would be made for the applicant to make necessary connection to essential service subject to satisfaction of the relevant authorities.

Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instruments

No draft environmental planning instruments apply to the site.

Section 79C(1)(a)(iii) – Any Development Control Plan

Penrith Development Control Plan 2006

Section 6.14 – Erskine Park Employment Area

The above provisions of the DCP apply to the subject site. A table detailing compliance with the relevant controls applicable to the proposed development is attached to this report (See Appendix No.4).

The proposed development is generally consistent with the Development Control Plan; however a variation is sought in respect to car parking.

A total of 50 parking spaces are proposed to service the proposed development. Having regard to Council's Development Control, a total of 110 parking spaces would be required.

The applicant has provided justification for the variation to the development control in part as follows: -

“The proposed development includes the provision of 50 car spaces on site. The car spaces provided as part of the proposal adequately cater for the requirements of the Data Centre. An analysis of Council's and the RTA's parking requirements is included in the Table 4.1 below.

Parking Requirement Comparison

<i>Land Use</i>	<i>Floor Area (m²)</i>	<i>DCP Requirements</i>		<i>RTA Guidelines</i>	
		<i>Rate per m²</i>	<i>Spaces</i>	<i>Rate per m²</i>	<i>Spaces</i>
<i>Warehouse</i>	<i>7066m²</i>	<i>1/100m²</i>	<i>70</i>	<i>1/300m²</i>	<i>23.6</i>
<i>Ancillary Office</i>	<i>1603m²</i>	<i>1/40m²</i>	<i>40</i>	<i>1/300m²</i>	<i>5.34</i>
<i>TOTAL</i>	<i>-</i>	<i>-</i>	<i>110</i>	<i>-</i>	<i>29</i>

The above illustrates that there is a demand for between 29 and 110 parking spaces for the proposed development. The proposal accommodates 50 parking spaces which falls within the requirement bracket.

The relevant objectives of the development control are listed as follows: -

“(a) To ensure the provision of adequate on-site parking to satisfy the demands generated by developments within the area; and

(b) To eliminate the need for kerb side parking and congestion on the public road network.”

The parking rate stipulated by the RTA is significantly less than that required by Council's Development Control Plan. The proposed use is unlikely to generate an excessive amount of parking, comprising of staff and visitor parking only. The proposal will provide a total of 50 parking spaces, which are substantially more than the RTA requirement. However the number of parking spaces are less than that required by Penrith DCP 2006.

The proposed parking spaces are consistent with the anticipated staff numbers expected at the site at any one time. The applicant had advised that additional parking will be available along the south of the building in the event that future tenants at the site require additional car parking.

Council Senior Traffic Engineer has reviewed the proposal and notes that the parking provided is adequate for the proposed use.

Section 79C(1)(a)(iv) – The Regulations

This section is not applicable for the subject application.

Section 79C(1)(b) – The Likely Impacts of the Development

Noise Generation

The applicant has submitted a Noise Impact Report prepared by AECOM Pty Ltd dated 23 December 2010. The report provides an acoustic assessment of the proposed development. The significant noise sources include generators, chillers and ancillary mechanical equipment. The report concludes that for continuous operation, compliance with the project specific Industrial Noise Policy (INP) goals can be achieved at the nearest potentially sensitive residential areas to the north of the site and at the nearest industrial boundary under typical operational scenario conditions.

In order to ensure compliance with these goals, recommendations have been made in the report which is detailed as follows: -

- Air cooled package units shall achieve the sound power level of 89dB(A) and generators 95dB(A).
- Incorporating equipment with the above sound power levels in the design will ensure that all noise criteria for the proposed development are met.

Council's Senior Environment Officer has reviewed the Noise Impact Report and raises no objection to the conclusion and recommendations of the report. Conditions numbers 2.62 & 2.63 are recommended to be imposed to permit the incorporation of the above measures as recommended in the Noise Impact Report.

Traffic and Access

Direct vehicular access is proposed from Templar Road with separate car and truck (medium rigid) access points. All vehicles would be able to enter and exit the site in a forward direction with sight lines at the proposed driveway entrances unimpeded with landscaping, fencing or signage.

Council's Senior Traffic Officer has reviewed the proposed development and concludes the following in respect to traffic generation: -

- *The proposal will produce a consistent increase in local traffic flow in accordance with the master plan for the site. 240 proposed daily trips or 30 peak hour trips (based on warehouse rate) are anticipated to / from the site and these trips were applied to the road network with agreeable results in the concept planning stages.*
- *All service vehicles should enter and exit the site in a forward direction and have appropriate access to loading docks. The site must cater for the largest service vehicle proposed.*
- *Adequate signposting for both vehicles and pedestrians must be provided onsite to ensure vehicle and pedestrian conflicts are mitigated.*
- *The driveway width must accommodate swept movements of the largest vehicle servicing the site and be designed to AS 2890.2 (2002). If required, No Stopping signage opposite the heavy vehicle driveway must be installed.*
- *The applicant is to determine the swept path requirements for the site and approach Council with a signage layout showing the proposed length of parking restrictions if applicable. Appropriate bicycle parking facilities shall be located within the proposed site.*

Condition Numbers 2.57 to 2.61 are recommended to be imposed for the above matters. Having regard to the above, it is considered that the proposed development is satisfactory in respect to traffic generation.

Economic Impact

The proposed development would provide a purpose built facility for a Data Centre to operate within the Erskine Business Park. The use of the site will result in the creation of employment opportunities not only from a full time staff but also casual/seasonal positions which will result in a positive economic and social impact.

Safety and Security

A perimeter fence is proposed to be installed in accordance with Council's requirements including fencing to street frontages. It is also likely that security cameras, appropriate lighting and regular security patrols will occur once the proposed facility is operational.

Appropriate lighting will be installed to staff car parking areas to ensure that the site remains safe for staff and visitors.

Waste Management

A Waste Management Plan has been prepared to address both construction and operational activities proposed at the site. Appropriate arrangements will be made for construction waste to be disposed of at authorised waste management facilities. Given the nature of the data centre, the proposed development is unlikely to generate excessive amount of waste. Waste would be serviced by general and recycled waste bins which are to be emptied on a weekly basis.

Section 79C(1)(c) – The Suitability of the Site for the Development

The site of the proposed development is considered suitable for a number of reasons including: -

- The site is well located with regard to its proximity to Erskine Park Road, Mamre Road and the M4 Motorway. The proposed future Lenore Drive link (through Eastern Creek) would also contribute to the site's connectivity to major transport infrastructure including the M7 Motorway;
- The site is well located in the context of the local and regional community with regard to providing employment opportunities;
- The site is located substantially away from residential areas of Erskine Park and St Clair to the north of the site;

It is for these reasons, that the proposed development is considered suitable for the subject site.

Section 79C(1)(d) – Any Submissions made in relation to the Development

(a) External Referrals

Clause 29 of SEPP WSEA outlines the following: -

“29 Industrial Release Area—satisfactory arrangements for the provision of regional transport infrastructure and services

- (1) This clause applies to the land shown edged heavy black on the Industrial Release Area Map, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).*
- (2) The object of this clause is to require assistance to authorities of the State towards the provision of regional transport infrastructure and services (including the Erskine*

Park Link Road Network) to satisfy needs that arise from development on land to which this clause applies.

- (3) Despite any other provision of this Policy, the consent authority must not consent to development on land to which this clause applies unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) in relation to the land to which this Policy applies.*
- (4) Subclause (3) only applies if the land that is the subject of the application for development consent was not being used for industrial purposes immediately before the application was made.*
- (5) Subclause (3) does not apply in relation to:*
 - (a) any land that is reserved exclusively for a public purpose, or*
 - (b) any development that is, in the opinion of the consent authority, of a minor nature.”*

Pursuant to Clause 29, the Director-General of the Department of Planning is to certify that the proposed development is satisfactory to the contribution for satisfactory arrangements for regional transport infrastructure and services.

Council provided written correspondence to the Department of Planning which confirmed that Section 94 Contributions had been reconciled for the subject site in a previous subdivision relating to the site. On this basis, it was considered that the subject site had made satisfactory arrangements for the provision of regional transport infrastructure and services.

On 1 March 2010, Council received the Director General’s certification that the site has complied with Clause 29 of SEPP WSEA (See Attachment 3).

(b) Internal Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment: -

Building Surveyor

No objection raised to the proposal, subject to conditions.

Development Engineer

No objection raised to the proposal, subject to conditions.

Traffic Engineer

No objection raised to the proposal, subject to conditions.

Environmental Health

No objection raised to the proposal, subject to conditions.

(c) Community Consultation

The development application was advertised in the local newspapers and notified to the owners and occupants of the adjoining sites from 17 January 2011 to 15 February 2011 in

accordance with Part 2.7-Notification and Advertising of DCP 2006. No submission was received during the exhibition period.

Section 79C(1)(e) – The Public Interest

The proposed development would significantly contribute to the ongoing growth and development of the Erskine Business Park and the greater Western Sydney Employment Hub. The contribution to employment opportunities in the region is considered to be significant with respect to a large organisation setting its base in the Penrith Local Government Area.

Section 94 Contributions

In November 2004, Council granted consent for a three (3) lot Torrens Title subdivision with one (1) residue lot and bulk earthworks pursuant to DA04/1599. The subject site was one of the resulting lots produced from the subdivision by virtue of DA04/1599. It is confirmed that Section 94 contributions applicable to the site have been paid.

Conclusion

This application seeks consent to construct an industrial building for a Data Centre at the subject site. The proposed development will provide employment opportunities for the Penrith Local Government Area. The variation of development controls of the proposed development with respect to car parking is considered to be reasonable, having regard to the proposal demonstrating an appropriate development that is site responsive and aims to enhance the high quality nature of the employment area.

Consideration of all matters has identified that the proposed development is suitable for the site subject to the recommended conditions. After detailed consideration of all matters under Section 79C of the Environmental Planning and Assessment Act 1979 this report recommends that the application be granted consent.

Recommendations

1. The information contained in the report on Development Application DA10/1329 which proposes the Erection of an Industrial Building for the purposes of a Data Centre with associated Office, car parking and landscaping at Lot 2 DP 1094504, Nos.1-23 Templar Road Erskine Park be received;
2. The subject Development Application be approved, subject to the imposition of the following conditions:

Standard Conditions

- 2.1 **A001** - The development must be implemented substantially in accordance with the following plans: -

Drawing Title	Drawing No	Issue	Prepared by	Dated
Site Plan	DA02	A	Greenbox Architecture	24/12/2010

Ground Floor Plan	DA03	A	Greenbox Architecture	24/12/2010
First Floor Plan	DA04	A	Greenbox Architecture	24/12/2010
Roof Plan	DA05	A	Greenbox Architecture	24/12/2010
Elevations	DA06	A	Greenbox Architecture	24/12/2010
Sections	DA08	A	Greenbox Architecture	24/12/2010
Aerial View	DA10	A	Greenbox Architecture	24/12/2010
Stormwater Plan	H100	A	AECOM	24/12/2010
Landscape Plan	LDA01	A	AECOM	23/12/2010

That have been stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

2.2 **A013** - Surrender of Previous Consent

Prior to the issue of a Construction Certificate for the development consent No DA09/1323 shall be surrendered to Penrith City Council in accordance with the provisions of the Environmental Planning and Assessment Act, 1979.

If Council is not the certifier issuing the Construction Certificate, then before the Construction Certificate is issued a letter from Council is to be provided to the certifier stating that the development consent has been surrendered to Council.

2.3 **A019** – Occupation Certificate

The development shall not be used or occupied until an Occupation Certificate has been issued.

2.4 **A026** – Advertising Signs

A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan–Advertising Signs.

2.5 **A029** – 24 hour operation

The development is permitted to operate on a 24 hour basis, seven (7) days a week. Acoustic Impact shall be minimised to the surrounding area and consistent with the Acoustical Assessment Report and further conditions in this consent.

2.6 **A032** – Goods in Building

All materials and goods associated with the use shall be contained within the building at all times.

2.7 **A038** – Lighting Locations

Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary

for safe operation. The lighting shall be in accordance with AS 4282 “Control of the obtrusive effects of outdoor lighting” (1997).

2.8 **A039** – Graffiti

The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.

2.9 **A046** – Construction Certificate

A **Construction Certificate** shall be obtained prior to commencement of any building works.

2.10 **B004** - Dust

Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.

2.11 **B005**- Mud/Soil

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

2.12 **D001** – Erosion and Sediment Control

Erosion and sediment control measures shall be installed prior to the commencement of works on site including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing’s “Managing Urban Stormwater: Soils and Construction” 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

The erosion and sediment control measures shall be certified (by way of a Compliance Certificate) as having been installed in accordance with the approved erosion and sediment control plan(s) for the development and “Managing Urban Stormwater: Soils and Construction” 2004. The Compliance Certificate shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed prior to and maintained throughout the construction phase of the development until [the landscaping, driveway and on-site parking areas have been completed for the development. These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

2.13 **D002** - Spraygrass

All land that has been disturbed by earthworks is to be spraygrassed or similarly treated to establish a grass cover.

2.14 **D005**-

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury-Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

2.15 **DA06A** – Bulk Earthworks

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

2.16 **D009** – Waste Storage Area

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

2.17 **D010** – Waste Management Plan

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

2.18 **D015**

A plan detailing spill prevention, contingency and emergency clean-up procedures for the development shall be submitted for approval **prior to construction works commencing**. The approved procedures plan shall be implemented in the event of a spill or emergency.

2.19 **D026**

Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements. If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility. The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

2.20 **D018** – Underground Tanks

Inlets to underground storage tanks are to be located so as to ensure that vehicles discharging fuel are contained within the boundaries of the site.

2.21 **D023** - Bunding

All works and storage areas where spillages are likely to occur shall be bunded. The size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater. All bunded areas shall be graded to a blind sump so as to facilitate emptying and cleaning. Details are to accompany the application for a Construction Certificate.

2.22 **E01A** – BCA Compliance

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) complying with the deemed to satisfy provisions, or
- (b) formulating an alternative solution which:
 - complies with the performance requirements, or

- is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

2.23 **E006** – Disabled Access and Facilities

Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

2.24 **E009** – Annual Fire Safety Statement

The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

- (a) deal with each essential fire safety measure in the building premises, and
- (b) be given:
 - within 12 months after the last such statement was given, or
 - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

2.25 **G002** – Section 73 Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate

2.26 **G004** – Integral Energy

Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Integral Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a padmounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the

Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

2.27 **H001** – Stamped Plans and Erection of Site Notice

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

2.28 **H002** – All forms of Construction

Prior to the commencement of construction works:

- (a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
 - a standard flushing toilet connected to a public sewer, or
 - if that is not practicable, an accredited sewage management facility approved by the council, or
 - alternatively, any other sewage management facility approved by council.
- (b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

2.29 **H041** – Hours of Work

“Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

2.30 **K101** – Works at no cost to Council

All roadworks, drainage works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

2.31 **K201** – Sediment and Erosion Control

Any Construction Certificate issued by the Principal Certifying Authority or Certifying Authority shall incorporate plans and details for erosion and sediment control in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

2.32 **K202** – Roads Act

Prior to the issue of a Construction Certificate a Roads Act application, including payment of application and inspection fees shall be lodged with Penrith City Council, as the Roads Authority, for the following works:

- a) Provision of a vehicular crossing/s.
- b) Provision of a heavy-duty vehicular crossing/s.
- c) Provision of path paving for the full property frontage.
- d) Provision of private drainage connections to Council's road drainage system.
- e) Removal of redundant vehicular crossings and reinstatement of kerb and gutter.
- f) Opening the road reserve for the provision of services including stormwater.
- g) Placing of hoardings, containers, waste skips, etc. in the road reserve.
- h) Replacement of damaged kerb and gutter for the full property frontage.
- i) Erection of an awning.
- j) Utility lead in works.

All works within the road reserve shall be carried out in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's **City Works Department** on (02) 4732 7777 to arrange an inspection of the works (and payment of inspection fees, if required).

2.33 **K209** – Stormwater Plan

The stormwater drainage system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by AECOM plan number H100 issue A dated 24 December 2010.

The proposed development and stormwater drainage system shall be designed to ensure that stormwater runoff from upstream properties is conveyed through the site without adverse impact on the development or adjoining properties.

Engineering plans and supporting calculations for the stormwater drainage system are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater drainage system has been designed in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

2.34 **K213** – Water Quality

Stormwater runoff from parking, uncovered paved areas shall be directed to a stormwater pre-treatment system. The treatment devices shall be designed to remove expected pollutant loadings in accordance with the Department of Environment, Climate Change & Water's 'Managing Urban Stormwater – Environmental Targets/ Treatment Techniques– October 2007' publications.

Any Construction Certificate issued by the Principal Certifying Authority or Certifying Authority shall incorporate:

- Specification & installation details of the stormwater pre-treatment system
- The approval of an operation and maintenance manual/ schedule for the proposed device

A copy of the approved operation and maintenance manual/ schedule shall be submitted to Penrith City Council with notification of the Construction Certificate issue.

2.35 **K221** – Access and Circulation

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

2.36 **K301**- Installation of Sediment Control Measures

Prior to the commencement of works on site, including approved clearing of site vegetation, erosion and sediment control measures shall be installed. The erosion and sediment control measures are to be installed in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

2.37 **K303** – Dilapidation Report

Prior to the Commencement of Works a dilapidation report of all infrastructure fronting the development in Templar Road is to be submitted to Penrith City Council. The report is to include, but not limited to, the road pavement, kerb and gutter, footpath, services and street trees and is to extend 20m either side of the development.

2.38 **K407** - Filling

All filling shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

2.39 **K501** – Works within Road Reserve

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works within the road reserve have been inspected and approved by Penrith City Council.

2.40 **K502** – Works as Executed

After completion of all civil works, works-as-executed drawings and compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

An original set of works-as-executed drawings and copies of compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

2.41 **K503** – Stormwater Compliance

Prior to the issue of select an Occupation Certificate the Principal Certifying Authority shall ensure that the stormwater pre-treatment system

- have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- have met the design intent with regard to any construction variations to the approved design.
- any remedial works required to been undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

2.42 **K504** – Restriction as to User

Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the storm water pre-treatment system shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Design and Construction Guidelines and Construction Specification for Civil Works.

2.43 **K505** – Rectification of Damage

Prior to the issue of an Occupation Certificate any damage to Council infrastructure not identified in the dilapidation report, as a result of the development shall be rectified at no cost to Penrith City Council.

Any rectification works within Templar Road will require a Roads Act application. The application is to be submitted and approved by Penrith City Council prior to such works commencing.

2.44 **K508** – Entry/Exit Signage

Prior to the issue of an Occupation Certificate signage which is clearly visible from the public road shall be placed within the development site.

The signage shall indicate that the northern vehicular access for the Data Centre is to be used for cars only and appropriately signposted. The southern most vehicular accesses to the Data Centre is to be used for heavy vehicles only and appropriately signposted 'In Only' and 'Out Only'.

2.45 L001 – General Landscaping

A landscape plan prepared by a consultant registered with Penrith Council shall be submitted to the principal certifying authority prior to the issue of a construction certificate. All landscape works are to be constructed in accordance with that plan and Sections F5 “Planting Techniques”, F8 “Quality Assurance Standards”, F9 “Site Management Plan” of Penrith Council’s Landscape Development Control Plan.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and
- in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity, as the vegetation which died or was removed.

2.46 L002 – Landscaping Construction

The approved landscaping for the site must be constructed by a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to construct category 3 landscape works.

2.47 L003 – Report Requirements

The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below. These reports shall be prepared by a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to design category 3 landscape works.

i. Implementation Report

Upon completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a landscape professional listed in Council’s Approved Landscape Consultants Register as suitable to design category 3 landscape works.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

ii. Maintenance Report

On the first anniversary of the date of the Occupation Certificate issued for the development, a Landscape Maintenance Report is to be submitted to Penrith City Council certifying that the landscape works are still in accordance with the development consent and the plant material is alive and thriving.

This report is to be prepared by a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works.

iii Final Site Arborist's Report (significant tree protection)

This report is to be submitted to Penrith City Council 2 years after the Occupation Certificate was issued. This report is to be prepared by a consulting arborist listed in Council's Approved Landscape Consultants Register. At Council's discretion this period may be reduced under circumstances where the Site Arborist is able to guarantee the health and ongoing survival of the trees.

iv 3 Year Landscaping Report (category 3 developments)

3 years after an Occupation Certificate was issued for the development, a landscape professional listed in Council's Approved Landscape Consultants Register as suitable to design category 3 landscape works shall prepare a Landscaping Report for Council's consideration and approval, certifying to one of the following:

- (a) The landscaping on site has matured and is in accordance with the original landscape approval.
- (b) The landscaping on site has not matured in accordance with the original design philosophy and requires significant restoration.

In this case, restoration plans are to be submitted to Council for its consideration and approval. The approved plans shall be implemented at the expense of the property owners.

2.48 L005 – Planting of Plant Material

All plant material associated with the construction of approved landscaping is to be planted in accordance with the Tree Planting Specification prescribed in Penrith Council's Landscape Development Control Plan.

2.49 L006 – Aust Standard

All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

2.50 L008 – Tree Preservation Order

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

2.51 Q01F – Notice of Commencement and Appointment of PCA

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate

- issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an “Appointment of Principal Certifying Authority” in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a “Notice of Commencement” to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

2.52 Q006 – Occupation Certificate

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building/tenancy and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Occupation Certificate can be issued for the development, [Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

Special Conditions

- 2.53 All civil works shall be designed and constructed in accordance with Penrith City Council’s Design and Construction Guidelines and Construction Specification for Civil Works and applicable Australian Standards.
- 2.54 No work shall be carried out within the Bio-Diversity Corridor as described in the 88B Instrument “Y” *Restriction on the Use of Land and Right of Access variable width in DP1094504*.
- 2.55 Prior to the issue of a Occupation Certificate a checklist and supporting documentation shall be submitted to the Principal Certifying Authority demonstrating that each condition of the development consent has been satisfactorily addressed.
- 2.56 The **final Occupation Certificate** shall not be issued until all conditions of consent except those relating to ongoing operational matters, have been completed.
- 2.57 Appropriate bicycle parking facilities shall be located within the proposed site.
- 2.58 All service vehicles should enter and exit the site in a forward direction and have appropriate access to loading docks. The site must cater for the largest service vehicle proposed.

- 2.59 Adequate signposting for both vehicles and pedestrians must be provided onsite to ensure vehicle and pedestrian conflicts are mitigated.
- 2.60 The proposed disabled parking spaces must be designed to conform with AS 2890.6 (2009).
- 2.61 The driveway width must accommodate swept movements of the largest vehicle servicing the site and be designed to AS 2890.2 (2002). If required, No Stopping signage opposite the heavy vehicle driveway must be installed at no cost to Council. The applicant is to determine the swept path requirements for the site and approach Council with a signage layout showing the proposed length of parking restrictions if applicable.
- 2.62 The development is to operate in such a manner in which it does not generate noise greater than 40 dB(a) during the daytime and evening and 38 dB(a) at night time when measured at the nearest residential property boundary.
- 2.63 The development shall only exceed those levels at times in which in the emergency power supply is required. The use of the emergency power supply is not to exceed 44 dB(A) when measured at the nearest residential property boundary.

ATTACHMENTS

1. Site Plan and Elevations
2. General Terms of Approval by DECCW
3. Director General's Certification
4. Penrith DCP 2006 6.14 – EPEA Compliance Table

Attachment No.4

Penrith Development Control Plan 2006

The proposed development has been assessed in accordance with the requirements of the DCP and a summary is provided in the following table: -

REQUIREMENT	COMMENT	COMPLIES
<i>Section 2.2 Crime Prevention through Environmental Design</i>		
Lighting	Lighting is anticipated to be installed around the site including all loading docks and entries.	Yes
Entrapment spots	Access to the site would be controlled	Yes

and blind corners & Landscaping	with boom gates at all entry points, security patrols as well as closed circuit security cameras.	
Communal/ Public Areas:	Design of built form and landscaping enables effective passive surveillance from Templar Road with security fencing and closed circuit cameras in operation.	Yes
Entrances:	Access points will be made directly to Templar Road as well as main entrances to the building and office.	Yes
Security:	Swipe card systems will be utilised for all entries.	Yes
Section 2.9 Waste Planning		
Waste Management Plan	A Waste Management Plan has been prepared and submitted with regard to the provisions of the DCP.	Yes
Section 6.14 – Erskine Park Employment Area		
Part 2 – Drainage	A Stormwater Plan has been prepared by AECOM. It addresses all of the necessary stormwater requirements of Council contained within the Development Control Plan and relevant engineering standards.	Yes
4.2.4 Car Parking Requirements Warehouse 1 space/100m ² Office premises 1 space/40m ²	The proposed development includes the provision of 50 car spaces on site.	No, discussed in this report.
5.1.2 Height Requirements Maximum building heights to be determined on merits.	The proposed building will have a maximum height of 15metre at the ridgeline. This is consistent with most other buildings in the Erskine Business Park and is consistent with the requirements of the DCP given the site's location away from the residential area (previously zoned 4(e)).	Yes
5.2.2 Site Coverage Requirements Site coverage shall not exceed 50%.	The proposed development would have a site coverage of approximately 49 percent if you were to calculate the proposed building in the context of the development area (1.680 hectares). However, on the basis that no subdivision is proposed, the proposed building has a much smaller site coverage when assessed on the basis of the entire site.	Yes
5.3.2 Setback	The existing biodiversity corridor will act	Yes

<p>Requirements</p> <p>Lenore Lane 20m Loop Road 15m Rear & side boundaries 5m</p> <p>The following development is permitted within the defined setback:-</p> <ul style="list-style-type: none"> ▪ landscaping ▪ maintenance/rehabilitation of biodiversity corridors ▪ accessways and driveways ▪ drainage works. 	<p>as the landscape setback to Lenore Drive. This corridor is around 25 metres in width which exceeds Council's requirement for a 20 metre landscape setback along Lenore Drive.</p> <p>A 24.69 metre landscape setback is proposed to Templar Road. This landscape area would assist in visually screening the car parking area once established and soften the development with the streetscape of the area.</p> <p>Side setbacks will be landscaped to provide a screen to the eventual development on adjoining land. Future developments will also provide side landscape setbacks forming appropriate separation between various activities on the land.</p>	
<p>5.4.1 Urban Design Requirements</p> <p>a) In assessing development proposals, Council will have regard to the quality of building design and materials (type and colour).</p>	<p>The building incorporates various vertical and horizontal elements which makes it visually attractive. The external colour scheme contributes to achieve the above outcome. .</p> <p>The proposed office facade provides an articulated front to Templar Road. The building responds to the functionality requirements of the data centre and presents an architecturally attractive building in the Erskine Business Park.</p>	Yes
<p>6.1 Noise</p>	<p>This matter has been addressed in a previous section of this report.</p>	Yes
<p>6.5 Soil erosion</p>	<p>Erosion and sediment control measures have been submitted.</p>	Yes
<p>6.6 Air Pollution</p>	<p>The proposed development will not result in any significant air pollution emissions based on the nature of the proposed use.</p> <p>The facility will generate minimal heavy vehicle movements to and from the site when compared to other industrial activities.</p> <p>The proposed diesel generators will be operated in the event of a power outage. These generators will be fitted with the appropriate air quality measures to ensure that air quality impacts are minimised.</p>	Yes

