

Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-259

Development application

DA number	SPP-21-00007	Date of lodgement	31 May 2021
Applicant	IRM Property Group (No)2		
Owner	IRM Property Group (No)2		
Proposed development	Construction and operation of a warehouse and distribution facility including main ancillary offices, hardstand loading docks, provision of 281 car parking spaces, signage, retaining walls and emergency private access road.		
Street address	Archbold Road, Eastern Creek being Part Lot 2 DP 1145808, Part Lot 1 DP 1145808 and Part Lot 2 DP 1247691		
Notification period	1 to 15 July and 20 September to 4 October 2021	Number of submissions	1

Assessment

Panel criteria Schedule 6, Section 2 of State Environmental Planning Policy (Planning Systems) 2021	<ul style="list-style-type: none"> Capital investment value (CIV) over \$30 million (This development application has a CIV of \$35.9 million)
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> Environmental Planning and Assessment Act 1979 Biodiversity Conservation Act 2016 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Central City District Plan 2018. Blacktown Local Strategic Planning Statement 2020 Employment Lands Precinct Plan - Eastern Creek Precinct - Stage Three
Report prepared by	Jared Spies
Report date	30 August 2022
Recommendation	Approve, subject to deferred commencement consent including conditions listed in attachment 8.

Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal and DA submission material
- 5 Development application plans
- 6 Assessment against planning controls
- 7 Issues raised by the public
- 8 Draft deferred commencement conditions of consent

Checklist

Summary of section 4.15 matters

Have all recommendations in relation to relevant section 4.15 matters been summarised in the Executive summary of the Assessment report? Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments, where the consent authority must be satisfied about a particular matter, been listed and relevant recommendations summarised in the Executive Summary of the Assessment report? Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the Assessment report? Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (section 7.24)? Not applicable

Conditions

Have draft conditions been provided to the applicant for comment? Yes

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1 Executive summary

- 1.1 The key issues that need to be considered by the Panel in respect of this application are:
- the list of matters raised by the Panel at its 23 November 2021 briefing, which have been addressed by the applicant as detailed in Section 8.
 - that a proposed deferred commencement consent is necessary to address further information requested for drainage and biodiversity matters.
 - access to the site is yet to be resolved. This can be resolved by way of a deferred commencement condition for the reasons detailed in Section 8.
 - the applicant's proposed deletion of part of the indicative road pattern layout plan shown in the Eastern Creek Precinct Plan. This is considered acceptable due to site constraints. An alternative emergency access private road will also be provided which is included in an executed Voluntary Planning Agreement with Council as detailed in Section 8.
 - proposed variation to the controls relating to maximum retaining wall height in the Eastern Creek Precinct Plan (Stage 3). This is considered acceptable in these circumstances subject to deferred commencement conditions for the reasons detailed in Section 8.
 - proposed variation to the controls relating to car parking provisions in the NSW State Government Eastern Creek Precinct Plan (Stage 3). This variation is not considered acceptable but can be resolved in these circumstances subject to conditions if the applicant acts on one of the options detailed in Section 8.
 - that the applicant proposes to operate the facility 24 hours a day, 7 days a week. This is considered acceptable because the potential noise impacts on the surrounding area have been assessed as being satisfactory by our traffic and environmental health officers.
- 1.2 Assessment of the application against the relevant planning framework and consideration of matters by our technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent.
- 1.3 The application is therefore satisfactory when evaluated against Section 4.15 of the Environmental Planning and Assessment Act 1979.
- 1.4 This report recommends that the Panel approve the application subject to the deferred commencement consent including conditions listed in attachment 8.

2 Location

- 2.1 The site is located at 1 Kangaroo Avenue, Eastern Creek at the end of an existing private road cul-de-sac known as Kangaroo Avenue.
- 2.2 The M4 Western Motorway is immediately abutting the subject site to the north which includes a densely vegetated nature strip ranging in width from 28 m to 48 m in between the road carriageway and this property boundary. The M7 Westlink is 2.2 km to the east of the site.
- 2.3 The character of the area surrounding the site comprises a range of industrial, residential and conservation uses; in particular:
- the low density Minchinbury residential area is 160m to the north and separated from the site by the M4 Western Motorway and 2 associated vegetation strips.
 - industrial warehouses to the east on Kangaroo Avenue.

- the Bingo Eastern Creek Recycling Ecology Park is to the south.
- C2 Environmental Conservation zoned land to the west. This heavily vegetated land has conservation significance because it contains Cumberland Plain Woodland which is a critically endangered ecological community.

2.4 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The subject site is legally identified as Lot 2 DP 1145808. It has a registered area of 51.92 hectares. The portion of the site for the proposed development is in the north eastern corner of the site and has an area of 6.258 hectares.
- 3.2 The site is zoned part IN1 – General Industrial and part C2 Environmental Conservation (10.5 hectares).
- 3.3 The site's only access option is via the proposed driveway off the existing private road cul-de-sac head located at the north western end of Kangaroo Avenue. This portion of Kangaroo Avenue is still privately owned and managed by Frasers Property as it has not yet been dedicated to Council as a public road.
- 3.4 The slope of the land falls by 6 m from the south east to the north west. There is a berm to the south that borders the adjacent Eastern Creek Recycling Ecology Park.
- 3.5 An aerial image of the site and surrounding area is at attachment 2. The zoning plan for the site and surrounds is at attachment 3.

4 Background

- 4.1 Seven requests for information have been sent to the applicant subsequent to the initial lodgement of the application on 31 May 2021. The issues raised in our request for further information related to planning, traffic, biodiversity and engineering concerns. The first was sent on 8 July 2021 and the last was sent on 8 June 2022. The additional final information provided by the applicant on 8 July 2022 is adequate to enable Council to complete its assessment of the application. A number of deferred commencement conditions have been included in order to address the unresolved but achievable matters.
- 4.2 A Satisfactory Arrangements Certificate was issued by Department of Planning and Environment on 2 August 2022. Only then could Council finalise the report for determination by the Panel.

5 The proposal

- 5.1 The development application has been lodged by IRM Property Group (No)2.
- 5.2 The applicant proposes the following:
- 5.2.1 construction of a warehouse and distribution facility which will include;
- warehousing and distribution space
 - main site office and ancillary dock office
 - hardstand area for heavy vehicle manoeuvring and marshalling
 - provision of 281 car parking spaces
- 5.2.2 tree removal, vegetation clearing and landscaping
- 5.2.3 earthworks including levelling (cut and fill)

- 5.2.4 provision of a vehicle access point at Kangaroo Avenue and an easement and publicly accessible emergency egress point in the south western corner of the site through part of adjoining Lot 1 DP 1145808 and Lot 2 DP 1247691 out to Honeycomb Drive close to the existing cul-de-sac head.
- 5.2.5 business identification signage
- 5.3 The proposal will also necessitate consideration and approval of a significant amendment to the Indicative Road Layout Plan shown in the Eastern Creek Precinct Plan to delete the rest of Kangaroo Avenue through to Archbold Road.
- 5.4 Other details about the proposal are at attachment 4. A copy of the development plans is at attachment 5.

6 Assessment against planning controls

- 6.1 A full assessment of the Development Application against relevant planning controls is provided at attachment 6, including:
 - Environmental Planning and Assessment Act 1979
 - Biodiversity Conservation Act 2016
 - State Environmental Planning Policy (Industry and Employment) 2021
 - State Environmental Planning Policy (Planning Systems) 2021
 - State Environmental Planning Policy (Resilience and Hazards) 2021
 - State Environmental Planning Policy (Transport and Infrastructure) 2021
 - Central City District Plan 2018
 - Blacktown Local Strategic Planning Statement 2020
 - Employment Lands Precinct Plan - Eastern Creek Precinct - Stage Three

7 Issues raised by the public

- 7.1 The proposed development was notified to 7 property owners and occupiers in the locality from 1 to 15 July 2021. A second notification to the same property owners and occupiers was undertaken from 20 September to 4 October 2021. The proposal was also placed on Council's website for the public to view on both occasions.
- 7.2 Residents in Minchinbury were not notified because their properties are separated from the site by the 142 m wide M4 Motorway corridor with 2 associated vegetation strips. This motorway is the main east/west transport route to western and central NSW. Approximately 154,000 cars and trucks use the M4 per day. Council owned land also exists between their properties and the motorway. Notification was undertaken in the same way that notification of the neighbouring warehouse development was undertaken.
- 7.3 We received 1 submission from Frasers Property who currently still own the portion of Kangaroo Avenue that this application relies on for access.
- 7.4 The issues raised by Frasers Property relate to:
 - changes to the Kangaroo Avenue road alignment being contrary to the Precinct Plan.
 - confirmation sought regarding Council's acceptance of Kangaroo Avenue as a future permanent public road in its shortened cul-de-sac configuration instead of a through road to Archbold Road.
 - wanted Council to confirm that Sydney Water and Endeavour Energy that they have no objection to the shortened cul-de-sac alignment. Frasers property have bonds

outstanding with these service authorities based on the road continuing through to Archbold road and being dedicated as a public road.

A summary of each issue and our response is at attachment 7.

- 7.5 The issues raised in the submission are not sufficient to warrant refusal of the development application, but does warrant deferred commencement conditions as the proposal relies on consent being granted by Frasers Property for access to the site.

8 Key issues

8.1 The list of matters raised by the Panel at its 23 November 2021 briefing.

- 8.1.1 Biodiversity is a critical issue for this application. It was also an issue in an appeal in the Land and Environment Court in relation to subdivision of nearby land. Concerns here also relate to remnant flora and fauna on the actual site as well as the potential impact of the proposal on the adjoining site which has biodiversity value and is zoned C2 Environmental Conservation.
- A Biodiversity Development Assessment Report, Vegetation Management Plan and flora and fauna assessment have been submitted with the application. The report notes that the development site contains a significant area of Shale Plains Woodland being a species of Cumberland Plain Woodland. This is an endangered ecological community under the Biodiversity Conservation Act 2016 that must be retained intact.
 - The development site excludes this area of sensitive woodland from its footprint except for a portion at the southwest corner, for which the applicant must secure a biodiversity offset credit. Biodiversity offset credits ensure that biodiversity values will be gained at an offset site to compensate for biodiversity values lost at this site to achieve a standard of 'no net loss' of biodiversity. This C2 zoned land is mapped on the Biodiversity Values Map as 'Threatened species or communities with potential for serious and irreversible impacts', being Cumberland Plain Woodland. This documentation has been carefully assessed by Council's Natural Areas team. It considers that the issue around indirect impacts to the adjacent C2 zoned land have been sufficiently addressed. The C2 zoned land is approximately 10.5 hectares in area. Due to uncertainty around potential high flows and unknown effects on groundwater, a new Vegetation Management Plan and associated monitoring will be required as a condition of consent to monitor and respond to any changes. Council's Natural Areas team have therefore provided deferred commencement conditions of consent that include the requirement to submit to Council for approval:
 - a new vegetation management plan that must include the site and all of the adjacent C2 Environmental Conservation zoned land.
 - a dam dewatering plan for the decommissioning of the existing detention basin on site
 - a biodiversity management plan relating to the land in and adjacent to the development footprint. It must contain full details of the actions proposed to be taken with respect to the management of fauna during the course of carrying out the development.
- 8.1.2 Biodiversity credits are necessary to offset the tree removal as well as the implementation of a Vegetation Management Plan.
- A total of 80 trees are proposed to be removed to facilitate the proposed development. This includes approximately 0.25 ha of Cumberland Plain

Woodland which triggered the requirement for a Biodiversity Development Assessment Report to be submitted. As a result, 7 biodiversity offset credits will need to be retired. This has been included as a condition of consent.

- Our Natural Areas team has provided conditions of consent for the proposal. These conditions include the requirement for the applicant to secure the retirement of ecosystem credits prior to the commencement of works. The conditions also include the requirement to implement the new Vegetation Management Plan prior to the issue of any Occupation Certificate as well as ongoing vegetation management for the life of the development as a positive covenant on title.
- Notwithstanding this, to further offset this loss of trees, a total of 120 new trees will be planted inside the development site. This will include Cumberland Plain Woodland vegetation. This does not include any trees that the vegetation management plan will also require to be planted in the C2 zoned land.

8.1.3 Overshadowing of the C2 zoned land as a result of building heights and setbacks as well as the height of the proposed retaining walls.

- The applicant has provided a shadow diagram to illustrate the shadow impacts of the proposal on the C2 land to the west. The shadow diagrams show that only in the 9 am winter shadow is there a minor shadow cast onto the Cumberland Plain Woodland. This shadow will also be at ground level and should not affect solar exposure for canopy species. By 12 pm in winter, all of the land to the west of the site has full solar exposure and in summer there will be no shadow impact. Since the areas of biodiversity to be retained are located to the north and west of the site, the overshadowing effect of the proposed retaining wall and building height will be negligible.

8.1.4 The Panel considered the 10m high retaining walls to be excessively high and requests were made for further consideration of alternative options or mitigation measures such as terracing and screening.

- The applicant has not amended the plans to providing terracing of the western retaining wall. The applicant has however supplied a photomontage (see below) of how this wall and the warehouse would appear when viewed from the M4 motorway.



- Due to the amount of existing vegetation in the C2 zone which is 223m wide and also immediately adjacent to the M4, it is considered that the retaining wall will be adequately screened with vegetation. Notwithstanding this, a condition of consent has been imposed requiring the submission of an

additional landscape plan with downward cascading planting all along this retaining wall. A locally endemic species such as Old Mans Beard or Clematis is required for this planting. The species selected, together with its ongoing management, is to be included in the vegetation management plan. Conditions of consent have been imposed accordingly. This will ensure satisfactory screening of the wall.

- To further ameliorate the impact of this wall, a condition of consent has been included for different colour banding to be applied to the masonry blockwork of the wall. The top half of the wall will need to be light and the bottom half dark in colour.
- The current C2 zoning prevents the adjacent vegetation from being cleared or removed for development purposes. It will also have to be managed in perpetuity in accordance with the new vegetation management plan. The vegetation management plan submitted with the application already identifies opportunities to revegetate the land to the west of the retaining wall even more which will eventually provide further screening.
- The retaining wall also reduces in height along its entire length by immediately tapering away from the M4 towards the southern boundary until it is only 2m in height. This means the retaining wall is only at 10m high at one point, albeit at the point closest to the M4.
- Since the retaining wall will be satisfactorily screened by vegetation and reduces in height along its entire length, it is considered acceptable to not impose terracing of it.

8.1.5 The Panel raised the issue of further survey work, investigations and possible mitigation actions required in relation to fauna on site.

- Our Natural Areas team have also considered the fauna related issues associated with this proposal and have concluded that they can be managed, subject to deferred commencement conditions.
- As discussed above, deferred commencement conditions have been imposed that will require the submission of a new vegetation management plan, dam dewatering plan and biodiversity management plan prior to the consent becoming operational.
- These plans must include measures to mitigate impacts on fauna such as:
 - provision nesting boxes or alternatively 'chainsawn' hollows to achieve a target of four nesting boxes or hollows per hectare
 - fencing to delineate the vegetation management area, including educational and enforcement signage to stop unauthorised access
 - a water quality monitoring program in wetland areas, including target water quality or macroinvertebrate benchmarks
 - provide a fauna rescue and release procedure
 - where tree removal is required, a licensed wildlife carer or ecologist will be required on site as a fauna handler during tree removal works.
 - propose strategies for re-use of top soil, tree hollows, logs, coarse woody debris and bush rock
 - provide relocation sites for native species identified in the existing dam
 - provide methods to prevent injury to fauna during pumping of water from the existing dam during its dewatering

- detail how fauna will be rescued from dam sediments or allowed to relocate from the dam.

8.2 A proposed deferred commencement consent to address our drainage and biodiversity concerns.

- 8.2.1 Apart from the biodiversity matters discussed above, Council's drainage engineers have provided deferred commencement conditions of consent that need to be addressed by the applicant prior to the consent becoming operational.
- 8.2.2 Our drainage engineers are of the view that the engineering plan amendments to be addressed by the applicant are challenging but achievable. The required amendments will also ensure that a neutral or beneficial environmental outcome is achieved. This means that, if satisfied, the proposal will achieve a reduction in sediment and nutrients exiting the site and entering the adjacent patch of C2 - Primary Conservation zoned land. It will also ensure that stormwater flows exiting the site and entering the C2 zoned land must be similar to post development levels. These factors will ensure that the completed operational development must always minimise its impacts on the adjacent biodiversity values mapped vegetation in the adjacent C2 zone.

8.3 Access to the site is yet to be provided but can be resolved as part of a deferred commencement condition

- 8.3.1 The development site is only accessible from the proposed driveway off the existing cul-de-sac head off Kangaroo Avenue. This section of Kangaroo Avenue has not yet been dedicated to Council as a public road. It is still a private road owned and maintained by Frasers Property. Owner's consent is therefore required from Frasers to allow the applicant to use this part of Kangaroo Avenue for access. This consent has not yet been provided.
- 8.3.2 The only submission received in response to the notification of this proposal was from Frasers. Whilst Frasers did not necessarily object to the proposal, they have contractual obligations with Sydney Water and Endeavour Energy based on the cul-de-sac being temporary (until Kangaroo Avenue is constructed through to Archbold Road) and not permanent. Frasers also have bonds outstanding with these service authorities based on the road continuing through to Archbold road and being dedicated as a public road. These civil matters will need to be resolved between the applicant and Frasers after this consent has been issued as a variation to the Precinct Plan road layout needs to be approved with this application (refer to 8.4 below). A deferred commencement condition has been imposed accordingly.

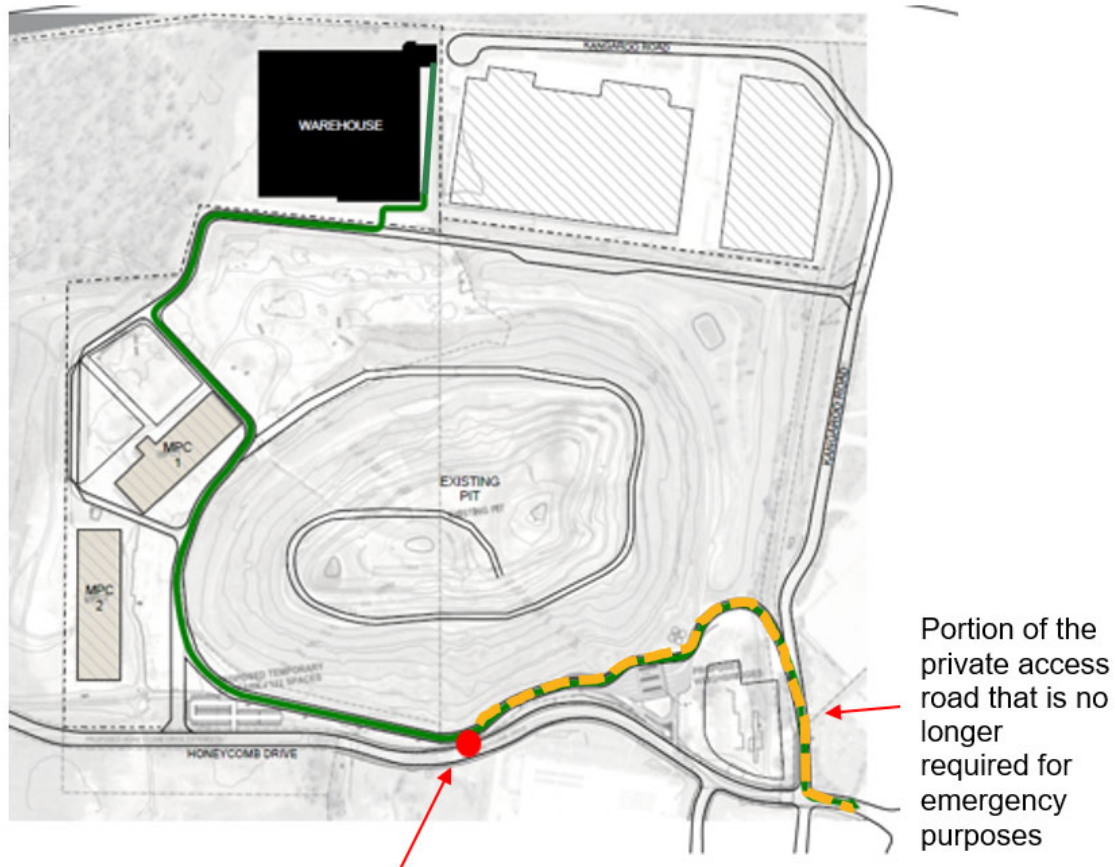
8.4 The applicant proposes a deletion of part of the indicative road pattern layout shown in the Eastern Creek Precinct Plan and instead proposes an alternative emergency access road through its adjoining property.

- 8.4.1 A road connection is shown on the Eastern Creek Precinct Plan from the existing cul-de-sac head of Kangaroo Avenue to Archbold Road as illustrated below in yellow.



- 8.4.2 The applicant is unable to deliver this connection road. Our engineers have advised that, due to the topography of the site, the Precinct Plan road is not deliverable. Its location would also impact on Cumberland Plain Woodland in the C2 Environmental Conservation zoned area.
- 8.4.3 The indicative road pattern layout shown on the Eastern Creek Precinct Plan is therefore proposed to be removed.
- 8.4.4 As discussed at 8.3.1, the only access point to the site is via a driveway off the existing cul-de-sac head off Kangaroo Avenue. This section of Kangaroo Avenue is still a private road owned and maintained by Frasers Property. Owner's consent is required from Frasers to allow the applicant to use this part of Kangaroo Avenue for access. This consent has not yet been provided, so a deferred commencement condition has been imposed to ensure this consent is obtained prior to the consent becoming operational.

Without the connection from Kangaroo Avenue to Archbold Road, no access will be provided to Archbold Road in the event of an emergency occurring at some point along the length of Kangaroo Avenue. In this regard, the applicant has owner's consent from Bingo Recycling and Ecology Park (being the property owner of this development application site and the land to the south of the site) to create an easement in gross for public access under S88E of the Conveyancing Act 1919 over the existing private driveway through the Bingo site on Lot 1 DP 1145808 and Lot 2 DP 1247691 next door. This will only be used in times of an emergency that blocks the existing private Kangaroo Avenue. This emergency access road will start at the end of Kangaroo Avenue cul-de-sac head through this development site and then on to the Bingo site leading back out to Honeycomb Drive (see below).



Emergency access into and out of subject site

- 8.4.5 The location where this emergency access road meets Honeycombe Drive is already dedicated to Council as a public road. The driveway that has recently been constructed onto Honeycomb Drive (which is a public road) will be used as the emergency access point instead. This access point (red dot above) also shortens the length of the emergency access road substantially.
- 8.4.6 This will ensure that in the event of an emergency causing Kangaroo Avenue to be closed, any emergency vehicles or trapped workers and their vehicles will be able to enter or leave this site using this easement for public access to be situated at the end of the existing cul-de-sac through the site southwards along the site's eastern boundary and to the end of the site at its south eastern corner. This will join onto the existing gravel road in the Bingo site and back out to Honeycomb Drive.
- 8.4.7 This option was assessed by our traffic officers who do not have any objections to this emergency private road subject to creation and registration of the proposed emergency private road as an easement in gross benefitting Council. This easement will also require the emergency private road to be constructed to Council's standards to withstand wear and tear from heavy vehicles. This is to be achieved through the creation of an easement in gross for public access over the subject land and adjacent land being Lot 1 DP 1145808 and Lot 2 DP 1247691 (the Bingo site) using S88B of the Conveyancing Act 1919 benefitting Council and the public at large. The same easement in gross will also have to be registered on the title of the Bingo site for the length of the emergency egress route. Conditions of consent have been imposed accordingly as part of the deferred commencement consent to ensure the easement and upgrade of this private access road occurs prior to the consent being activated. A Voluntary Planning Agreement has also been executed between Council and the developer that requires the creation of the

above easement in gross for emergency access over part of the land in favour of Council.

- 8.4.8 On the basis a variation to the Precinct Plan road layout is therefore considered acceptable, subject to conditions.

8.5 A proposed variation to the maximum retaining wall height provision in the Eastern Creek Precinct Plan (Stage 3).

- 8.5.1 As discussed in 8.1.4 above, a retaining wall of up to 10m high is proposed along the western side of the development. This far exceeds the 3m maximum retaining wall height prescribed by Section 11.8(d) of the Eastern Creek Precinct: Employment Lands Precinct Plan - Stage 3 (Precinct Plan). The controls state that:

- Where filling requires a retaining wall element to be greater than 3m in height, the retaining wall shall be terraced to allow for a ratio of 3m in height to 1.5m in length. The 1.5m terraced area must be provided with suitable landscaping to screen the height of the retaining wall.

- 8.5.2 The western retaining wall is not terraced at all. This matter was raised with the applicant by Council in a request for information sent on 8 July 2021. The applicant was requested to demonstrate how this wall would create no visual impacts or alternatively to reduce the footprint of the warehouse to allow terracing of the warehouse. The applicant's response package included a visual impact assessment of the retaining wall as well as a photomontage of it from the M4 Western Motorway. Their response has been discussed in 8.1.4 above which adequately addresses our concerns, subject to conditions.

- 8.5.3 A variation to the maximum retaining wall height provisions is therefore considered acceptable in this instance, subject to conditions.

8.6 A proposed variation to the car parking provision in the NSW State Government Eastern Creek Precinct Plan (Stage 3) is only supported if additional parking is provided, provisional or otherwise.

- 8.6.1 The proposal does not comply with the parking requirements prescribed by Section 10.6 of the NSW State Government Precinct Plan as outlined below:

- the warehouse component of 38725 m² requires 544 parking spaces.
- the office component including the dock office of 1973m² requires 50 spaces.

The total number of car parking spaces required is therefore 594 spaces.

- 8.6.2 The proposal includes the provision of only 281 car parking spaces (including 52 provisional spaces).

- 8.6.3 The applicant's traffic impact assessment that accompanies the application indicates that these 281 car parking spaces will satisfy the parking requirements as stipulated by the Roads and Maritime Services, Guide to Traffic Generating Developments 2002, which:

- provides rates based on actual parking surveys for numerous industrial sites across metropolitan Sydney.
- suggests that a total of only 183 car parking spaces are required for the proposed development.

- 8.6.4 Council does not believe that this development accords with these parking rates for the following reasons:

- this is an isolated site with the closest railway stations being Mounty Druitt Station and Rooty Hill Station. These railway stations are located approximately 3 km to the north.
- the closest available public transport is via 2 bus stops located 1.6 km to the south east of the site on Honeycomb Drive. These bus stops are both located outside of the 400 m walking catchment from the site.
- the proposed development will operate 24 hours a day, 7 days a week. This type of operation is not conducive to the use of public transport.
- a Transport Demand Management Plan that promotes a variety of transport choices for the development has not been provided with the application.

8.6.5 Council has not supported such a significant variation for any application in the City to date. A variation of over 50% represents an over development of the site and would not ordinarily be supported. However, the applicant also owns land to the south of the site and also already proposes an emergency access road over this adjacent land. This adjacent land can also include the provisional parking of 300 cars if the need arises. This is particularly important as the site is at the end of a private road so no on-street parking would be allowed. Overflow back up parking is therefore essential. This can be achieved by allocating land for 300 parking spaces off the emergency access road with a restriction as to user on the land nominating the area and purpose of this land only for provisional parking related to this proposal on Lot 2 DP 1145808.

8.6.6 Council will require a parking plan showing how 300 spaces can be provided off the emergency access road as part of the deferred commencement consent. In addition, the area for parking nominated is to be the subject of a restriction to user that this land is not to be used for any purpose except the parking associated with the warehouse and distribution centre on Lot 2 DP 1145808. This restriction has to be created as a S88E easement against the title of the burdened Lot 1 DP 1145808. The deposited plan is also to denote the burdened area so it is not developed in the future for other purposes. This restriction is to be created as part of the deferred commencement conditions before the consent can be activated.

8.6.7 A variation to the car parking provisions is therefore considered acceptable only on the basis of the approach being taken as outlined in the deferred commencement conditions.

8.6.8 Alternatively, the applicant could elect to construct a basement carpark capable of accommodating the shortfall in car parking spaces. Council has recently considered a similar development under SPP-21-00008 at 201 Power Street, Glendenning. In order to address car parking deficiencies in that proposal, the Panel required amendment of the basement car park to address the issue as a deferred commencement condition.

8.7 The warehouse/distribution centre proposes to operate 24 hours a day, 7 days a week which is acceptable as the potential noise impacts have been carefully considered by Council.

8.7.1 The applicant proposes 24 hours a day, 7 days a week operation for the warehouses and distributions centre.

8.7.2 The noise and traffic impacts of the development on adjacent users and the residential area at Erskine Park and Minchinbury have also been carefully assessed by our traffic and environmental health sections. These sections find the proposed operation acceptable, subject to conditions, none of which limit the operating hours.

- 8.7.3 The nearest residential receivers are 160 m to the north of the site in Minchinbury but separated from it by the 142 m wide M4 Motorway corridor. This motorway is the main east/west transport route to western and central NSW. Approximately 154,000 cars and trucks use the M4 per day. Noise monitoring was conducted at 24 Cobbler Crescent, Minchinbury which is 320 m to the north of the site. Noise monitoring was conducted at this location instead of properties directly next to the M4 to get an accurate indication of the background noise of the area whilst avoiding directional sources of road noise from the motorway. However, noise impacts presented in the report were predicted at the nearest residential receivers.

9 External referrals

- 9.1 The Development Application was referred to the following external authorities for comment:

Authority	Comments
Transport for NSW	Acceptable subject to conditions.
NSW State Emergency Services	Due entirely to the need to meet priorities dictated by legislated responsibilities, the NSW State Emergency Services is unable to provide comment on the development application, however it will incorporate any relevant data in the development of local flood plans and associated emergency management strategies for the area. No comments were provided regarding the adequacy of the emergency egress route.
Department of Planning Industry and Environment	Satisfactory Arrangements Certificate was issued on 2 August 2022.
Sydney Water	Water and waste water services should be available. Detailed requirements, including any potential extensions or amplifications will be provided once the development is referred to Sydney Water for a Section 73 application. A standard condition of consent has been imposed requiring a separate Section 73 application to be submitted to Sydney Water.
Endeavour Energy	Acceptable subject to conditions.

10 Internal referrals

- 10.1 The Development Application was referred to the following internal sections of Council for comment:

Section	Comments
Building	Acceptable subject to conditions.
Engineering	Acceptable subject to deferred commencement conditions.
Traffic	The emergency egress plan can function. However, a legal mechanism must be in place to accept/allow an independent operation outside of Bingo's own property to use their internal roads in case of emergency. A condition of consent has been imposed requiring a Section 88B instrument to be included on the title of the land accordingly.

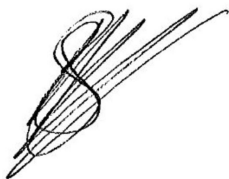
Section	Comments
Waste	No comment as it is not a residential development.
Environmental Health	Acceptable subject to conditions.
Open Space	No objections and no conditions required.
Natural Areas	Acceptable subject to deferred commencement conditions.
Property	No objections and no conditions required.

11 Conclusion

- 11.1 The proposed development has been assessed against all relevant matters and is considered to be satisfactory. It is considered that the likely impacts of the development can be satisfactorily addressed and that the proposal is in the public interest. The site is considered suitable for the proposed development subject to conditions.

12 Recommendation

- 1 Approve SPP-21-00007 subject to a deferred commencement consent including conditions listed in attachment 8, for the reasons listed below:
 - a It is considered that there will be no adverse impacts on the natural or built environment in this area from this development [Section 4.15(b) of the Environmental Planning and Assessment Act 1979].
 - b The site is considered suitable for the proposed development [Section 4.15(c) of the Environmental Planning and Assessment Act 1979].
 - c The proposed industrial development will make use of a vacant site that is currently underutilised. It will also facilitate employment generating uses, which is consistent with the aims of the State Environmental Planning Policy (Industry and Employment) 2021. On this basis it is in the public interest to have the site developed [Section 4.15(e) of the Environmental Planning and Assessment Act 1979].
- 2 Council officers notify the applicant and submitter of the Panel's decision.



Jared Spies
Senior Development Assessment Planner



Judith Portelli
Manager Development Assessment



Peter Conroy
Director City Planning and Development