

Assessment against planning controls: section 4.15, summary assessment and variations to standards

1.1 Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment	Complies
a. The provisions of: i. Any environmental planning instrument	<p>The proposal is considered to be consistent with the relevant environmental planning instruments including:</p> <ul style="list-style-type: none"> 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 <p>The proposed development is a permissible land use with the IN1 – General Industrial Zone and satisfies the zone objectives outlined under Blacktown Local Environment Plan 2015.</p>	Yes
ii. Any proposed instrument that is or has been the subject of public consultation under this Act	N/A	N/A
iii. Any development control plan	The Blacktown DCP 2015 applies to the site. The proposed development is generally compliant with the numerical controls established under the DCP, apart from the maximum retaining wall height and landscaping provisions.	No, but variations are considered acceptable in this instance. Refer to 9 below for details.
iv. a) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4	A voluntary planning agreement (VPA) was entered into between the developer and Council for Water sensitive urban design on 14 September 2021.	Yes
v. the regulations (to the extent that they prescribe matters for the	<p>Refer to Part 4, Division 1 of the Regs 2021 Clause 61</p> <ul style="list-style-type: none"> Demolition of a building - the consent authority must consider the Australian Standard AS 2601—2001: The Demolition of Structures. 	Yes

Heads of Consideration	Comment	Complies
purposes of this paragraph)	The application is compliant with the regulations.	
b. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality	It is considered the likely impacts of the development have been satisfactorily addressed. It is believed that the proposed development will not entail any significant adverse unfavourable social, economic or environmental impacts.	Yes
c. The suitability of the site for the development	The subject site is zoned IN1 – General Industrial Zone and warehouses are permissible with consent. The site is located in an industrial area and is surrounded by other warehouses and industrial buildings and a motorway. The development would not result in any significant adverse impacts on the amenity of the locality. Accordingly, the site is considered to be suitable for the development.	Yes
d. Any submissions made in accordance with this Act, or the regulations	No submissions were made.	Yes
e. The public interest	Due to the minor environmental impact of the development, and its socio-economic benefits, the proposal is considered to be compatible with the public interest.	Yes

2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Summary comment	Complies
<p>Whilst this application was lodged when Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River applied, the proposal complies with the new State Environmental Planning Policy (Biodiversity and Conservation) 2021 which includes the provisions of Sydney Regional Environmental Plan No. 20 Hawkesbury-Nepean River.</p> <p>A consent authority must take into consideration the general planning considerations set out in Clause 9.4 of this policy and the specific planning policies and recommended strategies in Clause 9.5. The planning policies and recommended strategies are considered to be met through the development controls of the Blacktown Development Control Plan 2015.</p> <p>The development generally complies with the development standards and controls established in Blacktown Development Control Plan 2015, to enable the orderly development of the site. There are minor variations to the development standards and controls with respect to maximum retaining wall height and landscaping provisions. However, the proposed development has demonstrated consistency with the relevant objectives and represents a site responsive development. Therefore, the proposal is considered to satisfy Clauses 9.4 and 9.5.</p>	Yes

3 State Environmental Planning Policy (Industry and Employment) 2021

Summary comment	Complies
<p>Whilst this application was lodged when State Environmental Planning Policy No 64 – Advertising and Signage applied, the proposal complies with the new State Environmental Planning Policy (Industry and Employment) 2021 which includes the provisions of State Environmental Planning Policy No 64 – Advertising and Signage.</p> <p>The proposed business identification signage will identify the industrial estate and associated buildings and direct customers to the respective warehouses. It is considered that the proposed signage meets the overall aims and objectives at Clause 3(1)(a) and addresses the criteria in Schedule 5 of this policy.</p>	Yes, subject to conditions

4 State Environmental Planning Policy (Planning Systems) 2021

Summary comment	Complies
<p>Whilst this application was lodged when State Environmental Planning Policy (State and Regional Development) 2011 applied, the proposal complies with the new State Environmental Planning Policy (Planning Systems) 2021 which includes the provisions of State Environmental Planning Policy (State and Regional Development) 2011.</p> <p>The Sydney Central City Planning Panel is the consent authority for all regionally significant development with a capital investment value of over \$30 million.</p> <p>As this development application has a capital investment value of \$32.5 million, Council is responsible for the assessment of the development application and determination of the application is to be made by the Panel.</p>	Yes

5 State Environmental Planning Policy (Resilience and Hazards) 2021

Summary comment	Complies
<p>Whilst this application was lodged when State Environmental Planning Policy 55 – Remediation of Land applied, the proposal complies with the new State Environmental Planning Policy (Resilience and Hazards) which includes the provisions of State Environmental Planning Policy 55 – Remediation of Land.</p> <p>Clause 4.6 of the new policy requires a consent authority to consider whether the land is contaminated and if it is suitable or can be remediated to be made suitable for the proposed development, prior to the granting of development consent.</p> <p>A Site Audit Report and subsequent Site Audit Statement were submitted in support of the application and document the findings of a site audit conducted by James Davis of Enviroview Pty Ltd, a NSW Environment Protection Authority Contaminated Land Accredited Site Auditor accredited under Part 4 of the Contaminated Land Management Act 1997 as a Site Auditor.</p> <p>The objectives of the site audit were to determine whether the site is suitable for the proposed ongoing commercial/industrial land use, which is specifically defined for the purposes of the site audit as a commercial/industrial land use. It also reviews the previous site investigation, remediation and validation works that have already been completed for this site.</p> <p>The Site Auditor considers that the site is suitable for the ongoing commercial/industrial land use.</p> <p>Notwithstanding this, our Environmental Health section assessed the Site Audit Report and Site Audit Statement and confirmed the site's suitability for the proposed industrial use, subject to conditions.</p>	Yes, subject to conditions

Summary comment	Complies
A proposed condition of consent will require the submission of a clearance certificate/statement prepared in line with the National Code of Practice for the Safe Removal of Asbestos to confirm that any asbestos removal has been carried out after demolition of the existing buildings.	

6 State Environmental Planning Policy (Transport and Infrastructure) 2021

Summary comment	Complies
<p>Whilst this application was lodged when State Environmental Planning Policy (Infrastructure) 2007 applied, the proposal complies with the new State Environmental Planning Policy (Transport and Infrastructure) 2021 which includes the provisions of State Environmental Planning Policy (Infrastructure) 2007.</p> <p>This policy ensures that Transport for NSW is given the opportunity to comment on development nominated in Schedule 3 as 'traffic generating development'.</p> <p>The thresholds for warehouse or distribution centres include:</p> <ul style="list-style-type: none"> 8,000 m² in site area or (if the site area is less than the gross floor area) gross floor area with access to a road (generally) 8,000 m² in site area or (if the site area is less than the gross floor area) gross floor area with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road) <p>The proposed development includes a total warehouse area of 16,501 m². The application has therefore been referred to Transport for NSW, which provided us with comments to consider during our assessment of the proposal. Our Traffic section has reviewed the comments and have included conditions of consent as appropriate. The comments provided by Transport for NSW and our response are set out at section 8.7 of the covering assessment report.</p>	Yes

7 Central City District Plan 2018

Summary comment	Complies
<p>While the Act does not require consideration of District Plans in the assessment of development applications, the proposal is consistent with the following overarching planning priorities of the Central City District Plan:</p> <p>Liveability</p> <ul style="list-style-type: none"> Improving access to jobs and services Contributing to the provision of services to meet communities' changing needs. 	Yes

8 Blacktown Local Strategic Planning Statement

Summary comment	Complies
<p>The Blacktown Local Strategic Planning Statement outlines a planning vision for the City over the next 20 years to 2041. It contains 18 Local Planning Priorities based on themes of Infrastructure and collaboration, Liveability, Productivity, Sustainability and Implementation.</p> <p>The development application is consistent with the following priorities:</p> <ul style="list-style-type: none"> Productivity 	Yes

9 Blacktown Local Environmental Plan 2015

Summary comment

Blacktown Local Environmental Plan 2015 applies to the site with regard to the proposed development. We have assessed the development application against the relevant provisions and have found that it is compliant with all matters.

10 Blacktown Development Control Plan 2015

Summary comment

Blacktown Development Control Plan 2015 applies to the site. We have assessed the development application against the relevant provisions and the proposal is considered to be compliant with all matters under Blacktown Development Control Plan 2015 apart from those outlined in the table below.

Controls/requirements	Proposal	Complies	
Part A: General guidelines			
8.5 Retaining walls and ground reshaping	<p>Development application plans must include the proposed location of any retaining walls, which are to comply with the controls. Care should be taken to ensure that any reshaped ground does not undermine or fill around any tree.</p> <p>Where any reshaped ground is not supported by a structurally adequate retaining wall, the ground shall be battered / sloped.</p> <p>All retaining walls are to comply with relevant Australian Standards, applicable Engineering Design Codes or any manufacturer's specifications.</p> <p>All retaining walls associated with subdivision works shall be masonry and, if terraced, individual walls should not exceed 900mm in height with the horizontal separation equal to the greatest wall height.</p> <p>Maximum depth of any cut – 900mm</p> <p>Maximum height of any fill – 600mm</p> <p>Terracing (horizontal separation) between retaining walls – Minimum of 1.2m</p>	<p>The existing terrain of the site requires bulk earthworks and site grading to achieve level pads for the proposed development.</p> <p>Where possible, batter slopes are proposed to accommodate level changes. Where batter slopes are not practical, retaining walls will be required. All retaining walls will be located within the site.</p> <p>These retaining walls range from 800 mm to 4,100 mm in height, which exceeds the 900 mm maximum retaining wall height prescribed.</p> <p>The 4.1 m retaining wall is not visible to the public as it is located adjacent to the under-croft parking of Warehouse 2. The highest retaining wall with a height of 3.3 m that will be publicly visible faces towards the M7 highway. It is located adjacent to Warehouse 2's western façade. The bottom of this wall is located below the existing level of the M7 which will reduce its visibility. Visibility of the wall will be further reduced by the offramp of the M7 to Power Street as this wall is mostly located behind the offramp. A condition of consent has also been imposed requiring the submission of an additional landscape plan prior to the issue of a Construction Certificate that illustrates either an up-creeping or down-cascading landscape treatment feature to further screen and soften this retaining wall.</p>	No, but a variation is considered acceptable in this instance, subject to conditions

Summary comment

		<p>A landscape setback zone will also be provided adjacent to all public streets. Within this landscape zone, 106 new native trees are proposed to be planted. The combination of varying tree species and canopies shall create both good shade amenity and successful visual screening of the retaining walls and the warehouses alike. New trees along with shrub and groundcover understory also proposed within these landscaped frontage setbacks, will further ameliorate visual impact of built form and retaining walls.</p> <p>The 900 mm maximum retaining wall height control is also considered to be aimed at regulating residential development, not industrial development where higher retaining walls are common.</p> <p>The variation to the maximum retaining wall height provisions is therefore considered satisfactory.</p>	
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Part E: Development in the Industrial Areas

4.2 Landscaping	<p>Landscaping proposals should generally be in accordance with the following requirements:</p> <p>(a) Every effort should be made to preserve existing trees and any associated native understorey in accordance with the provisions of Clause 5.9 of Blacktown LEP 2015 (Preservation of Trees or Vegetation).</p> <p>(b) All setback areas are to be landscaped and maintained incorporating as many existing trees as possible. Undeveloped areas are to be stabilised to prevent soil erosion. Landscaping may be required around the perimeter of undeveloped areas.</p> <p>(c) Car parking areas are to be suitably treated with landscaping to soften the appearance of the areas and to provide shade for parked cars. At a minimum standard one tree should be planted every 10 metres and be at a minimum height of 1m at the time of planting. Trees should be</p>	<p>Section 4.2 Part E of Blacktown Development Control Plan 2015 requires a spacing of one tree to be planted every 10 m in a car parking area.</p> <p>No trees are proposed in the car parking area, so the proposal does not comply with this control. This requirement is considered unnecessary given the fact that the adjacent sites also do not comply with this requirement. Necessary car parking spaces would be lost if more trees are introduced in the car park. The street fronting setback areas adjacent to Power Street and the M7 will however be fully landscaped with a 4 to 7 m landscape buffer provided. This will provide a satisfactory landscaping treatment along both street frontages to screen and soften the proposed built form.</p> <p>This minor variation from the DCP is therefore considered acceptable on this site.</p>	No, but a variation is considered acceptable in this instance
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Summary comment			
	<p>planted to achieve 50% shading of the carpark at ten year maturity. Appendix 1 provides a list of the tree species recommended by Council, with native species favoured. Undeveloped areas are to be stabilised to prevent soil erosion.</p>		