

Assessment report to Sydney Central City Planning Panel

Panel reference: PPSSCC-45

Development application

DA number	SPP-19-00013	Date of lodgement	31 October 2019
Applicant	Bieson Pty Ltd c/- Mecone		
Owner	The Trust Company Ltd & The Trust Company (Australia) Pty Ltd		
Proposed development	Stage 1 construction of a data centre building with carpark and a concept approval under section 4.22 of the Environmental Planning and Assessment Act 1979 for a stage 2 expansion of the data centre into Building 2 and associated substation		
Street address	10 Eastern Creek Drive, Eastern Creek (Lot 4001 DP 1243178)		
Notification period	2 December 2019 to 10 January 2020	Number of submissions	0

Assessment

Panel criteria Section 7, SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> Capital investment value (CIV) over \$30 million and below \$50 million (DA has CIV of \$41,372,914).
Relevant section 4.15(1)(a) matters	<ul style="list-style-type: none"> Environmental Planning and Assessment Act 1979 Protection of the Environment Operations Act 1995 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No. 33 – Hazardous and Offensive Development State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No. 55 – Remediation of Land Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997) State Environmental Planning Policy (Western Sydney Employment Area) 2009 Employment Lands Precinct Plan – Eastern Creek Precinct Central City District Plan 2018 Blacktown Local Strategic Planning Statement 2020
Report prepared by	Luma Araim
Report date	27 April 2020
Recommendation	Approve as a deferred commencement consent, subject to the conditions listed in attachment 7.

Attachments

- 1 Location map
- 2 Aerial image
- 3 Zoning extract
- 4 Detailed information about proposal and DA submission material
- 5 Development Application plans and applicant's car parking survey table
- 6 Assessment against planning controls
- 7 Draft 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
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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
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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
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (section 7.24)?	Not applicable
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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:
- Car parking provision based on a merit assessment. This is considered satisfactory subject to provisional parking in the event of any change of use.
 - Noise impact from a 24 hour operation is acceptable in a heavy industrial area subject to compliance with acoustic report recommendations.
 - Setbacks from old Wallgrove Road and Eastern Creek Drive. The setbacks are variable given the fall from Old Wallgrove Road and Eastern Creek Drive. The steep batters can be densely landscaped to meet the required screening.
 - Our engineers recommend deferred commencement conditions to address unresolved stormwater and drainage matters.
 - General Terms of Approval from the NSW Natural Resources Access Regulator (NRAR) have not been received, but we have conditioned for NRAR requirements to be met if any arise.
- 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 assessed as 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 recommended conditions listed in attachment 7.

2 Location

- 2.1 The site is located at the north-eastern corner of the intersection of Eastern Creek Drive and Old Wallgrove Road, Eastern Creek.
- 2.2 The site has convenient access to the major road and transport interchange of the M4 and Westlink M7, which is approximately 1 kilometre east of the site.
- 2.3 The site is also in close proximity to the Transgrid power station.
- 2.4 The surrounding area is of an industrial nature which consists of various industrial uses, supplier warehouses, distribution centres and freight transport facilities. To the north of the site there are substantial undeveloped parcels of land.
- 2.5 The location of the site is shown at attachment 1.

3 Site description

- 3.1 The site is legally described as Lot 4001 DP 1243178, being 10 Eastern Creek Drive, Eastern Creek.
- 3.2 The land is vacant and identified within the Western Sydney Employment Area.
- 3.3 The site has been cleared as it was ready to be developed under a past approval for development.
- 3.4 An aerial image of the site and surrounding area is at attachment 2.

4 Background

- 4.1 The subject site is zoned IN1 General Industrial under State Environmental Planning Policy (SEPP) (Western Sydney Employment Area) 2009. The zoning plan for the site and surrounds is at attachment 3.
- 4.2 The proposed data centre is defined as a 'warehouse or distribution centre', which is a permissible development in the IN1 zone under the Western Sydney Employment Area SEPP.
- 4.3 The SEPP does not specify any restriction on building height or floor space ratio (FSR) on the subject site.
- 4.4 An amendment was made on 8 November 2019 to the Infrastructure SEPP 2017 to insert Clause 27 in Division 3 to make electronic data storage facilities permissible with consent in any Business or Industrial zone where 'warehouse or distribution centres' are currently permissible with consent. The subject proposal is also now permissible under this SEPP amendment.
- 4.5 DA-18-00196 for Torrens title subdivision into 1 industrial and 1 residue lot was approved on 13 June 2018. Section 7.11 contributions were levied and paid under this DA and therefore the current application does not attract any Section 7.11 contributions.
- 4.6 DA-18-00938 was approved on 6 December 2018 for bulk earthworks, including cut and fill across the site to facilitate site levels for the future built form.
- 4.7 DA-18-01592 was approved on 20 June 2019 for the subject site for the construction of a warehouse and distribution facility comprising 33,250 m² of GFA, 266 parking spaces and site landscaping. Construction of the project has not commenced at this time. A condition will be included on the new consent to surrender this consent.

5 The proposal

- 5.1 The Development Application has been lodged by Bieson Pty Ltd c/- Mecone.
- 5.2 The applicant proposes Stage 1 for the construction of Building 1 of the Data Centre and a concept approval for Stage 2 expansion of the data centre in Building 2 and a substation with associated work and car parking. Stage 2 will be subject to a further Development Application following this concept plan approval.
- 5.3 Stage 1 comprises the construction of a 2 storey industrial building for use as a data centre, access and car parking area to provide on-site car parking and loading facilities comprising 60 spaces, including 2 accessible spaces, landscaping works, 18 generator flues along the southern elevation of Building 1, 2 satellite dishes, a fuel storage area in the south-eastern corner of Stage 1 and medium voltage switch room located to the south-western corner of Building 1.
- 5.4 Other details about the proposal are at attachment 4 and 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 at attachment 6, including:
 - Environmental Planning and Assessment Act 1979
 - Protection of the Environment Operations Act 1995
 - State Environmental Planning Policy (State and Regional Development) 2011
 - State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River
- State Environmental Planning Policy (Western Sydney Employment Area) 2009
- Employment Lands Precinct Plan – Eastern Creek Precinct
- Central Sydney District Plan 2018
- Blacktown Local Strategic Planning Statement 2020.

7 Key issues

7.1 The applicant is seeking to provide car parking on a merit-based approach

- 7.1.1 The Employment Lands Precinct Plan - Eastern Creek Precinct Plan is the primary Development Control Plan (DCP) that applies to the land. The DCP requires car parking provision for industrial uses of buildings greater than 7,500 m² to be at the rate of 1 space per 100 m² of gross floor area (GFA) and 1 space per 200 m² GFA only for the area in excess of 7,500 m², plus 1 space per 40 m² GFA for the office component. Furthermore, the DCP requires developments of more than 50 car parking spaces to allocate at least 2% of these spaces for disabled drivers.
- 7.1.2 The proposal comprises 13,422 m² of data storage area for both stages and 980 m² office space. Based on the DCP car parking rates, 158 car parking spaces are required. The proposal does not satisfy this requirement as it will provide only 60 spaces.
- 7.1.3 The parking demand for a data centre is considered to significantly differ from industrial uses which incur significantly higher car movements. A data centre requires a lot of space to be dedicated for data hard drives, unlike normal warehousing and manufacturing, and it will generate a low parking demand for truck/delivery vehicles and employees. With the Stage 1 DA, the proposed number of employees during peak operation is expected to be 29, which includes 9 non-office day shift workers. At night time, only the 9 night shift workers will be present on site. Stage 2 will present an identical staffing scenario. Therefore the proposed parking provision of 60 spaces more than meets staffing needs.
- 7.1.4 A traffic statement prepared by Aurecon, the applicant's traffic consultant, was provided in response to our Traffic Section comments, and states that the maximum parking demand of 56 spaces has been calculated based on a first principles approach, based on operational information provided on the anticipated staff and visitor numbers. A 90% car-share model was assumed, based on car pooling arrangements and the vicinity of the site to the bus and cycle network. The provision of 60 spaces for both stages upfront was determined to be sufficient to accommodate the maximum calculated demand, with 4 car spaces as a buffer.
- 7.1.5 In addition, up to 10 visitors are anticipated to arrive throughout the working day per building. It is assumed that a maximum of 2 visitors will arrive per hour for each building. The anticipated parking demand for visitors for both buildings is 4 parking spaces. The traffic report states that the maximum parking demand is 56 based on the modal share provided in the report and therefore the proposed visitor parking can be accommodated within the proposed car parking provision of 60 spaces.
- 7.1.6 The applicant was requested to provide justification for the variation by providing further benchmark examples of similar development that justify the parking rate they propose to be applied. A study was undertaken by applicant's traffic consultant of similar data centres around Sydney and their parking rates, and the

study was supported by a table which indicates that the proposed development at 10 Eastern Creek Drive provides the most parking spaces per square metre of GFA. This table is at attachment 5.

- 7.1.7 The applicant was also requested to ensure that sufficient area is made available on site to satisfy the required car parking rates outlined in Employment Lands Precinct Plan -Eastern Creek Precinct Plan so that car parking provision, can be met on site for any future change of use of the site. It was indicated that Stage 2 of the development includes a dedicated space in the south-eastern corner of the site for the construction of a private substation. This location can be repurposed into a carpark for future car parking provision should there be a change in use of the site in the future. This will be included as a condition of consent for any adaptive re-use of this site.
- 7.1.8 Our Traffic Management Section has reviewed the proposal following the receipt of the parking analysis and raised no objections.
- 7.1.9 The provision of 60 car parking spaces has been assessed on its merits and is considered adequate to meet the expected parking demand by staff and visitors to be generated by this specific land use, having regard to the applicant's car-sharing model for staff and their planned use of public transport.

7.2 Noise impacts from 24 hour operation

- 7.2.1 The proposal was accompanied by an Acoustic Assessment prepared by Aurecon, dated 23 October 2019, to determine whether the potential environmental noise impact associated with the operational phase of the development complies with the EPA's Industrial Noise Policy. The report identifies 3 noise sensitive receivers, being residential property at 146 Burley Road, Horsley Park located 1.6 km to the south, residential property located along Farrington Street, Minchinbury on the northern side of the M4 Motorway approximately 1.7 km to the north and commercial property Ricoh Sydney Distribution Centre offices located along the eastern façade of the warehouse development at 1 Eastern Creek Drive, Eastern Creek.
- 7.2.2 The report concludes, given the distance of the nearest residential receiver (1.6 km), that Stages 1 and 2 plant can be satisfactorily noise attenuated to ensure cumulative noise emissions comply with the noise emission goals.
- 7.2.3 It would be noted that additional noise emission assessments are recommended given that proposed services design and the likely plant/equipment associated with the design are not provided at this early DA stage. We will require all aspects of the design to comply with the EPA's Industrial Noise Policy. This will be included as a condition of consent. We will also require a post-operation Acoustic Verification Report as a condition, to be undertaken after 3 months of operation, to ensure the measures applied are effective in ensuring noise emitted is below background levels in accordance with the EPA's Industrial Noise Policy, especially during the sleep disturbance criteria period of 10.00 pm to 7.00 am.
- 7.2.4 Our Environmental Health Unit has undertaken a review of the potential noise impacts generated by this development and it considers the proposal acceptable subject to conditions to satisfactorily manage the potential noise impact.

7.3 Landscaped setbacks

- 7.3.1 The Eastern Creek Precinct Plan requires no buildings or hardstand area to be erected on any land within 20 m of the front property boundary with Old Wallgrove Road and the M4 Motorway. In this regard Building 2 of the Stage 2 concept plan is proposed to be setback approximately 21.8 m. However, the landscaped setback of Stage 2 with its front boundary to Old Wallgrove Road ranges between

10 m and 16 m. This is more than acceptable as usually a minimum of 10 m of landscaping will provide an outcome consistent with the objectives of the Precinct Plan. However, at the corner of Old Wallgrove Road and Eastern Creek there will be a landscaped setback of only 6 m wide. However, as this is only a point encroachment, and offset by the wider parts of the setback, it is considered acceptable. The landscaping setbacks proposed for this development along Old Wallgrove Road will still result in a development outcome consistent with the objectives of the Plan.

- 7.3.2 The Eastern Creek Precinct Plan also requires no buildings or hardstand area to be erected on any land within 10 m of the front property boundary within an industrial collector road and Eastern Creek Drive is such a collector road. While the setback of proposed Building 1 in Stage 1 exceeds the required 10 m setback for approximately 50 m, some parts of the landscaped setback along Eastern Creek Drive do not meet the minimum 10 m setback under the Precinct Plan. The non-compliance along the northern portion of the western boundary is primarily the result of the proposed angled entry/exit vehicular access point and the presence of a fire pump room which is required in this location to meet the requirements of the NSW Fire Brigades. Given the minor scale of the landscaping setback variations along the frontage to Eastern Creek Drive, overall the proposed landscaped setbacks will still provide a satisfactory buffer of planting between the proposed building and the road network. A condition is however recommended to provide at least a 1 m wide planting buffer along the front boundary adjacent to the driveway entry/exit points and this will supplement feature tree planting in the turfed road reserve footpath. Also, a condition requiring the submission of a final detailed landscape plan for Council's approval prior to the issue of a Construction Certificate has been included in the conditions.

7.4 Deferred commencement matters required by Drainage Engineers

- 7.4.1 Our stormwater and drainage engineers recommend deferred commencement conditions to ensure the applicant can address various engineering issues to their requirements. This includes the following issues:
- inconsistencies between models and plans
 - Council water conservation targets have not been achieved
 - missing information required for assessment
 - incorrect areas and sizing of tanks
 - issues with sizing of pipes
 - catchment areas are required for OSD and water quality
 - issues with the design of the Stormfilter tanks
 - missing MUSIC model.

7.5 Natural Resources Access Regulator comments not provided to date

- 7.5.1 The proposal was referred on 2 December 2019 to the NSW Natural Resources Access Regulator (NRAR) as the development is classified as 'Integrated Development' under section 4.46 of the Environmental Planning and Assessment Act 1979, as concurrent approval is required from NRAR under the Water Management Act 2000. We have been advised by NRAR that the application is still under assessment.
- 7.5.2 We will include a condition on the consent requiring the development to comply with any General Terms of Approval provided by NRAR, as a Deferred Commencement matter.

8 Issues raised by the public

- 8.1 The proposed development was notified to property owners and occupiers in the locality between 2 December 2019 and 2 January 2020.
- 8.2 We received no submissions.

9 External referrals

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

Authority	Comments
Department of Planning, Industry and Environment	No objections. Secretary's Certificate was issued on 27 March 2020 to meet Clause 29 of Western Sydney Employment Area SEPP 2009 'Infrastructure levy' requirements.
Transport for NSW (Road and Maritime Services)	Acceptable subject to conditions
Transport for NSW - the Outer Sydney Orbital	Acceptable, no conditions
Endeavour Energy	Acceptable subject to conditions
NSW Police - Mount Druitt Local Area Command	Acceptable subject to conditions
Natural Resources Access Regulator	To date no response has been received. However, a Deferred Commencement condition has been imposed that the applicant is to comply with any GTAs from NRAR.

10 Internal referrals

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

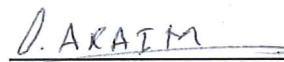
Section	Comments
Building	Acceptable subject to conditions
Engineering	Acceptable subject to deferred commencement conditions
EHU	Acceptable subject to conditions
Traffic	Acceptable
City Architect	Acceptable subject to conditions
Property	Acceptable
Open Space	Acceptable subject to conditions
S.7.11	Acceptable and no conditions required as s.7.11 contributions were included in the mother subdivision DA-18-00196 and paid.

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 have been satisfactorily addressed and that the proposal is in the public interest.

12 Recommendation

- 12.1 Approve Development Application SPP-19-00013 by way of a deferred commencement consent for the reasons listed below and subject to the conditions listed in attachment 7.
- The site is considered suitable for the proposed development.
 - The proposal adequately satisfies the relevant state and local planning provisions.
 - The proposed development does not create any unreasonable environmental impacts to existing or future potential industrial uses in the locality.
 - The proposal is in the public interest.
- 12.2 Council officers notify the applicant of the Panel's decision.


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