

TO: Sydney Central City Planning Panel – 17 March 2020

SUBJECT: 300 Manchester Road AUBURN NSW 2144

APPLICATION No: DA2019/329

Application lodged	15 October 2019
Applicant	Mirvac Industrial Developments Pty Limited
Owner	Constant 9 Pty Limited & Janyon Pty Limited
Application No.	DA2019/329
Description of Land	Lot 11 & Lot 12 DP 1166540 300 Manchester Road AUBURN NSW 2144
Proposed Development	Staged construction of six industrial warehouse buildings including ancillary offices to operate 24 hours a day 7 days a week, cafe area, associated car parking and infrastructure works including site entries from Manchester Road, roundabout, lot boundary adjustment and landscaping
Site Area	14.2 hectares
Zoning	IN1 General Industrial
Disclosure of political donations and gifts	Nil disclosure
Heritage	Yes – Archaeological Item
Principal Development Standards	N/A
Issues	Submissions, car parking in front setback, landscaping, hours of operation

SUMMARY

1. Development Application No. DA2019/329 was received on 15 October 2019, seeking consent for the staged construction of six industrial warehouse buildings including ancillary offices to operate 24 hours a day 7 days a week, cafe area, associated car parking and infrastructure works including site entries from Manchester Road, roundabout, lot boundary adjustment and landscaping.
2. The application was publicly notified to occupants and owners of the adjoining properties, advertised in the newspaper and through a site notice, for a period of fourteen (14) days from 5 November 2019 to 19 November 2019. In response, nine (9) submissions were received.
3. The subject site is within an archaeological item, being the 'Clyde Marshalling Yards' (Item no. A50) in the Auburn Local Environmental Plan 2010 (ALEP 2010). Heritage NSW was notified of the application, in accordance with the provisions of Clause 5.10(7) of the ALEP 2010, and comments were received advising that no specific conditions are required to manage an archaeological program, as no such program is required.
4. The site adjoins land owned by RailCorp and the concurrence of Sydney Trains has been received, subject to conditions of consent.
5. Variations to the controls at the Industrial Areas part of the ADCP 2010 are sought, as they related to the provision of car parking within the front setback, the provision of soft landscaping and the proposed 24/7 hours of operation. These variations have been considered as part of this assessment and are considered acceptable on merit.
6. The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979, SEPP 55, SEPP 64, ISEPP, Vegetation SEPP, Coastal Management SEPP, SREP 2005, ALEP 2010 and ADCP 2010 and is considered to be satisfactory.

7. *The application is recommended for conditional approval, subject to the conditions as provided in the attached schedule.*
8. *The application is referred to the Panel as the Capital Investment Value (CIV) of proposal exceeds \$30 million.*

REPORT

SUBJECT SITE AND SURROUNDING AREA

The site forms Lot 11 and Lot 12 in DP 1166540 and is known as 300 Manchester Road AUBURN NSW 2144. The site has a total area in the order of 14.12 hectares. The site maintains a frontage to an existing private road, which feeds off Manchester Road to the east.

Current improvements on the site include a metal warehouse building, a brick industrial warehouse building and an ancillary industrial warehouse building and single storey concrete rendered administration building; all buildings are located on Lot 11 DP 1166540.

There is an existing containment cell of contaminated material within the north-most portion of Lot 11, which has been subject to capping in the past. The site is predominantly cleared of vegetation, with the exception of small patches of vegetation and landscaping associated with the existing buildings on the site.

Existing development to the south of the site comprises low density residential land uses. The site is bound by an existing private access road to the west and beyond that the Duck Creek corridor. The land to the north and east comprises railway land which includes the Clyde Marshalling Yard and associated rail infrastructure, with the railway line further east.



Figure 1 – Aerial view of subject site and surrounding development (NearMap)

DESCRIPTION OF THE PROPOSED DEVELOPMENT

Council has received a development application for the construction of an industrial warehouse development at 300 Manchester Road, Auburn. The development specifically comprises:

Roundabout construction

A roundabout is proposed to be constructed at the intersection of Manchester Road and Chisholm Road, to facilitate heavy vehicle access to the site.

Staged construction of six (6) industrial buildings as follows:

Stage 1, Construction of Buildings 1 to 4

Building 1 4 x warehouse units with ancillary office space to each
Basement car parking
Hub building comprising three (3) levels with a café at ground level and offices above and basement level with bike storage and amenities.

Building 2 3 x warehouse units with ancillary office space to each

Building 3 4 x warehouse units with ancillary office space to each

Building 4 3 x warehouse units with ancillary office space to each

Stage 2 Construction of Buildings 5 and 6

Building 5 8 x warehouse units with ancillary office space to each

Building 6 5 x warehouse units with ancillary office space to each



Figure 2 – Site Plan

Car parking provision

A total of 596 car parking spaces are provided across the site, including 27 disabled spaces. These spaces are distributed in at-grade car parks across the site, corresponding to the industrial buildings as well as a basement carpark under Building 1.

Of the 596 spaces proposed, 39 spaces are proposed as provisional parking spaces. These provisional car parking spaces provided as at-grade spaces around Buildings 5 and 6. These provisional car parking spaces are in excess to the minimum number of spaces generated by the proposed warehouse use, ancillary office uses and the café use.

These provisional spaces are a form of 'future-proofing' of the development, to ensure that future tenants are not required to rely on on-street car parking.

The basement proposed under Building 1 comprises a total of 86 car parking spaces. The construction of this basement will be dependent on the future tenant to occupy Building 1 and whether the demand for these spaces is generated.

Notwithstanding, the exclusion of the basement car parking spaces, results in a total car parking provision of 510 spaces; in excess of the minimum number of spaces required by the development controls for warehouse, ancillary office and restaurant uses.

Signage

The following building and business identification signage is proposed across the site:

- 1 x 'Estate and Business Identification Sign' to be illuminated and mounted on the eastern building elevation of Building 1, nine (9) metres from warehouse floor level and measuring 2.5m x 8m x 200mm (depth).
- 7 x 'Wayfinding Signage Pylons' to be illuminated and dispersed through the site for tenants within each building. Each sign measures 3.3m in height from ground level and 1.5m wide.
- 2 x 'Main Directory/wayfinding Signage Pylons' to be illuminated, with one sign each to be placed within the eastern portion of the site and the western portion of the site. These signs are 3.3m high, from ground level and 2.3m wide.
- 9 x 'Wayfinding Signage Pylons for Car Parking' to be illuminated, with each sign measuring 2.1m from ground level and 800mm wide. These signs are dispersed through the site to identify the car parks within the site.
- 42 x 'Tenant Business Identification Signs', with an average of two (2) signs per industrial warehouse. These signs are to be mounted on the elevations of each warehouse within Buildings 1 to 6 (inclusive), at 8m from ground level where there is no awning and 6m from ground level, where the building has an awning. The signs each measure 1m x 3m wide and are not illuminated.
- 29 x 'Tenant Business Identification Signs' to be located above the office entry door to each warehouse building and the Hub building. These signs are to be mounted 3.4m from ground level, measuring 700mm x 2.5m wide and are not to be illuminated.

Landscaping

Landscape embellishment works are proposed across the site, with plantings including a range of tree species and shrubs and ground cover species.

Boundary adjustment

A boundary adjustment of the existing Lots 11 and 12 is proposed, to create two (2) lots as follows:

Site 1 129,868sqm area

Site 2 10,735sqm area

The warehouse development is wholly situated on Site 1 and Site 2 will be subject to a separate future development application.

Land dedication

As part of the roundabout works, a total land area of 626sqm is proposed to be dedicated to Council.

Operation

Consent is sought for a warehouse and distribution centre to operate 24 hour seven days a week.

Having regard to the individual industrial tenancies to be created in each of the six buildings, additional fit-out works to these tenancies would be subject to DA/CDC approvals. In the instance that a use beyond the scope of warehousing and distribution is proposed within a tenancy, a separate DA/CDC approval would be obtained.

The café component of the development, to be located within the ground level of the Hub building, will be subject to separate development consent.

Access and Circulation

Heavy vehicle entry to the site is to be gained primarily via a proposed two-way entry and exit driveway off the proposed roundabout to be constructed as part of this application. The concrete hardstand area for truck manoeuvring has been located along the northern elevations of Buildings 1 to 4, to facilitate access to the proposed loading docks within the tenancies. Truck circulation has been restricted to this area to minimise noise impacts, generated by truck movements, on the residential land to the south of the site.

There is a vehicle driveway proposed along the site's southern boundary, off the existing Private Road, which will provide access for staff and visitor vehicles; to the car parking areas.

There is a secondary access point to be constructed along the site's western boundary, to provide access to the northern portion of the site.

HISTORY

On 7 February 2020, Council granted development consent for the demolition of existing structures and related infrastructure, removal of vegetation, removal of capped contaminated soil and contaminated soil and civil work undertakings, including bulk earthworks and provision of retaining walls at the subject site, i.e. Lot 11 and Part Lot 12 in DP 1166540 (DA2019/307).

DA2019/307 essentially comprises the site establishment works required to facilitate the construction development proposed with this current application, i.e. DA2019/329.

APPLICANTS SUPPORTING STATEMENT

The applicant has provided a Statement of Environmental Effects prepared by Urbis dated 10 October 2019 and was received by Council on 15 October 2019, in support of the application.

CONTACT WITH RELEVANT PARTIES

The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.

INTERNAL REFERRALS

Development Engineer

The development application was referred to Council's Development Engineer for comment who has advised that the development proposal is satisfactory having regard to traffic and stormwater and therefore can be supported, subject to recommended conditions of consent.

Environment and Health

The development application was referred to Council's Environment and Health Officer for comment who has advised that the development proposal is satisfactory and therefore can be supported, subject to recommended conditions of consent.

Strategic Planning

The development application was referred to Council's Strategic Planning Officer for comment who has advised that the development proposal is satisfactory, given the development is supportive of Council's Employment and Innovation Lands Strategy, the Greater Sydney Region Plan and the Central City District Plan and will contribute to meeting the relevant productivity outcomes and therefore can be supported, subject to recommended conditions of consent.

Waste Management

The development application was referred to Council's Waste Management Officer for comment who has advised that the development proposal is satisfactory having regard to waste management and therefore can be supported, subject to recommended conditions of consent.

EXTERNAL REFERRALS

RMS

The development application was referred to the Roads and Maritime Service - now Transport for NSW (TfNSW), in accordance with the provisions of Clause 104 of State Environmental Planning Policy (Infrastructure) 2007. On 9 December 2019, TfNSW advised that no objection was raised to the development, subject to the inclusion of conditions of consent.

Sydney Trains

The development application was referred to Sydney Trains, in accordance with the provisions of Clauses 85 and 86 of State Environmental Planning Policy (Infrastructure) 2007. Sydney Trains have issued concurrence, subject to the inclusion of conditions of consent.

Heritage NSW

The development application was referred to Heritage NSW in accordance with the provisions of Clause 5.10(7) of the Auburn Local Environmental Plan 2010. On 28 November 2019, Heritage NSW advised that no specific conditions are required to manage an archaeological program, as no such program is required. NSW Heritage have further advised that it is unlikely that any 'relics' would be found at the site, however, if a consent is issued, then a condition to manage unexpected historical archaeological relics should be included.

Sydney Water

The development application was referred to Sydney Water in accordance with the provisions of Clause 78 of the *Sydney Water Act 1994*. A response has not been received to date. Notwithstanding, in accordance with the provisions of Clause 78(4) a condition of consent has been recommended requiring the developer to obtain a compliance certificate from Sydney Water.

WATER MANAGEMENT ACT 2000 (WM ACT)

A Flora and Fauna Assessment has been submitted with the application which includes a map – 'Waterfront land adjacent to the development area' which delineates the top of bank (TOB) of Duck Creek. This map demonstrates that the proposed works are not within 40 metres of the TOB. A controlled activity approval (CAA) is therefore not required to be obtained pursuant to Section 91 of the *Water Management Act 2000* and the development is not integrated development.

BIODIVERSITY CONSERVATION ACT 2016 (BC ACT)

The Flora and Fauna Assessment submitted with the application identified that no threatened fauna species were recorded within the development area. One threatened fauna species; *Pteropus poliocephalus* (Grey-headed Flying-fox) (GHFF) is present within 200 m of the development area:

There is a known camp for threatened fauna species Pteropus poliocephalus (Grey-headed Flying-fox) (GHFF), approximately 200 m to the north-west of the development site along Duck River. This camp is known as the Clyde GHFF camp and is approximately 50 m from the Main Western Railway.

The camp is separated from the site by the Auburn Rail Maintenance Facility. The Duck River GHFF camp was occupied at the time of the site inspection. During the survey, the general condition of the camp site was noted to be very poor, with native riparian vegetation dominated by weeds.

The Flora and Fauna Assessment concludes that the proposal will not directly impact upon the Duck River camp or associated vegetation. However, indirect impacts from noise pollution could also have an indirect impact on this species. Thus, a Test of Significance, pursuant to the provisions of Part 7 Division 1 Section 7.3 of the BC Act was undertaken. It was concluded that the proposal will not have a significant impact on this threatened species.

A condition of consent has been recommended to ensure any noise, light and air pollution impacts on the GHFF community are mitigated.

PLANNING COMMENTS

The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))

State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

(a) State Environmental Planning Policy (State and Regional Development) 2011

Development of a type that is listed in Schedule 7 of SEPP (State and Regional Development) 2011 is defined as 'regional significant development'. Such applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of Schedule 2 under the Environmental Planning and Assessment Act 1979. The proposed development constitutes 'Regional Development' as it has a Capital Investment Value (CIV) of \$82,280,467, which exceeds the \$30 million threshold. While Council is responsible for the assessment of the DA, determination of the Application will be made by the Sydney Central City Planning Panel.

(b) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Clause 7 of SEPP 55 requires Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. The matters listed within Clause 7 have been considered in the assessment of the development application.

Figure 3: SEPP 55 Assessment Table

Matter for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
In the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the site listed on Council's Contaminated Land database?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the site subject to EPA clean-up order or other EPA restrictions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the site been the subject of known pollution incidents or illegal dumping?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the site adjoin any contaminated land/previously contaminated land?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
The issue of site contamination was assessed as part of DA2019/307, which approved the demolition, bulk earthwork and land remediation required on the site to facilitate the proposed warehouse development.	
The site contains an existing containment cell of contaminated material which is required to be remediated to make the land suitable for the proposed industrial land use.	
A Remedial Action Plan (RAP) was endorsed as part of the consent for DA2019/307. Conditions of consent were included which required a NSW Environment Protection Authority (EPA) accredited Site Auditor to be engaged for the development approved by DA2019/307, to confirm that the site is remediated in accordance with the endorsed RAP. In accordance with the conditions of consent, the	

Matter for Consideration	Yes/No
<p>Site Auditor is required to prepare a Site Validation Report in accordance with the <i>Contaminated Land Management Act 1997</i> and relevant guidelines endorsed by the NSW EPA.</p> <p>In order to ensure that construction works do not commence until the land has been suitably remediated, a condition of consent has been recommended requiring a copy of the Site Validation Report to be provided to Council and the PCA, prior to construction works commencing on the site.</p> <p>On this basis, the development satisfies the provisions of Clause 7.</p>	

(c) State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The provisions of the ISEPP have been considered in the assessment of the development application.

The site is adjacent to a 'rail corridor', as defined in Clause 78 of the ISEPP, being the adjoining land to the north, east, south and west of the site that is owned by RailCorp, and includes the stabling yard which is for the purpose of rail infrastructure facilities.

The application was referred to Sydney Trains for concurrence in accordance with the provisions of Clauses 85 and 86. Concurrence has been received, subject to conditions which have been included (in their entirety) as recommended conditions of consent.

Whilst the site is adjacent to the rail corridor, development for the purpose of a warehouse and distribution centre is not a land use that is likely to be adversely affected by rail noise or vibration (i.e. a sensitive land use) and Clause 87 is therefore not applicable.

The development does not maintain a frontage to a classified road and the provisions of Clauses 101 and 102 are therefore not applicable to the development.

The development was referred to TfNSW (formerly RMS) pursuant to the provisions of Clause 104, as the development is traffic generating development as identified in Schedule 3; given the development provides in excess of 200 car parking spaces and is on a site that is greater than 20,000sqm. Advice was received advising that no objection is raised to the development, subject to the inclusion of conditions of consent, which have been included (in their entirety) as recommended conditions of consent.

(d) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)

The proposal does not exceed the biodiversity offsets scheme threshold. Therefore, the proposed vegetation removal is considered acceptable. Please refer to the DCP compliance table for further discussion.

SEPP (Vegetation in Non Rural Areas) 2017 applies to the Cumberland Local Government Area. However the ADCP 2010 does not declare vegetation on the site to be vegetation to which this policy applies. Notwithstanding, DA2019/307 approved demotion works across the site, which included the removal of vegetation. Therefore, the provisions of this policy do not apply to the development.

(e) State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP)

The western portion of Lot 11 is identified as a 'proximity area for coastal wetlands.' A Flora and Fauna Assessment accompanied the application, which included an assessment of the development against the provisions of Clause 11 (Development on land in proximity to coastal wetlands or littoral rainforest) of the Coastal Management SEPP. The provisions of Clause 11, as they relate to the proposed development, are discussed in detail below, having regard to the discussion in the Flora and Fauna Assessment.

- (1) *Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—*

- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*

Comment: The Flora and Fauna Assessment acknowledges that *the proposed works will not be carried out in or immediately adjacent to the mapped coastal wetland. No vegetation within the mapped wetland is proposed for removal. The condition of the Coastal Wetland is very poor, as it is dominated by exotic species and lacks the characteristic species usually observed within the Coastal Freshwater Wetland vegetation community. This is likely due to historical land disturbance and changes in flows from the upstream catchment. The proposed development is separated from the mapped coastal wetland by a private road and carpark.*

- (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment: *The Hydrological Assessment prepared for the site identified that, as a result of on-site detention and landscaping features incorporated into the redevelopment of the site, there would be an improvement in water quality (relating to gross pollutants, Total Suspended Solids, Total Phosphorous and Total Nitrogen) leaving the site when compared to pre-development levels.*

The Hydrological Assessment also identified that there would be a 1.7% decrease in the quantity of stormwater leaving the site following redevelopment compared to the current state, due to the improved augmented piped drainage system and on-site detention. Therefore, the quantity of surface water flow into the coastal wetland would be reduced and the quality of the surface water flow would be improved as a result of the proposed development.

Having regard to the above, it is therefore considered that the development would not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.

(f) State Environmental Planning Policy No 64—Advertising and Signage (SEPP 64)

The development includes the erection of business identification signage and building identification signage, on the proposed buildings and across the site. The application has been accompanied by a Signage Layout Plan which identifies the following sign types:

- 1 x 'Estate and Business Identification Sign' to be illuminated and mounted on the eastern building elevation of Building 1, nine (9) metres from warehouse floor level and measuring 2.5m x 8m x 200mm (depth).
- 7 x 'Wayfinding Signage Pylons' to be illuminated and dispersed through the site for tenants within each building. Each sign measures 3.3m in height from ground level and 1.5m wide.
- 2 x 'Main Directory/wayfinding Signage Pylons' to be illuminated, with one sign each to be placed within the eastern portion of the site and the western portion of the site. These signs are 3.3m high, from ground level and 2.3m wide.
- 9 x 'Wayfinding Signage Pylons for Car Parking' to be illuminated, with each sign measuring 2.1m from ground level and 800mm wide. These signs are dispersed through the site to identify the car parks within the site.
- 42 x 'Tenant Business Identification Signs', with an average of two (2) signs per industrial warehouse. These signs are to be mounted on the elevations of each warehouse within Buildings 1 to 6 (inclusive), at 8m from ground level where there is no awning and 6m from ground level, where the building has an awning. The signs each measure 1m x 3m wide and are not illuminated.
- 29 x 'Tenant Business Identification Signs' to be located above the office entry door to each warehouse building and the Hub building. These signs are to be mounted 3.4m from ground level, measuring 700mm x 2.5m wide and are not to be illuminated.

The signage proposed is consistent with the assessment criteria at Schedule 1 of SEPP 64. Refer to **Attachment 2** of this Report.

Regional Environmental Plans

The proposed development is affected by the following Regional Environmental Plans:

(a) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)

The subject site is identified as being located within the area affected by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development raises no issues as no impact on the catchment is envisaged.

The site is not identified in the relevant map as land within the 'Foreshores and Waterways Area' and is not a 'Strategic Foreshore Site' and does not contain any heritage items on the 'Heritage Map'. The portion of Duck Creek to which the site is adjacent to, is not within the Wetland Protection Area identified in the 'Wetland Protection Area' map. Hence the majority of the SREP is not directly relevant to the proposed development. Notwithstanding, the development is not inconsistent with the aims of SREP 2005 and the matters for consideration in Clause 20.

Local Environmental Plans

Auburn Local Environmental Plan 2010 (ALEP 2010)

The provision of the ALEP 2010 is applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the ALEP 2010 and the objectives of the IN1 General Industrial land use zone.

(a) Permissibility:-

The proposed development is defined as a 'warehouse and distribution centre' and is permissible in the IN1 General Industrial land use zone, with consent.

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, and includes local distribution premises.

Ancillary components to the development include 'business identification signs', 'building identification signs' and 'food and drink premises,' all of which are also permitted with consent in the IN1 General Industrial land use zone.

The relevant matters to be considered under ALEP 2010 and the applicable clauses for the proposed development are assessed below.

Figure 4 – Auburn LEP 2010 Compliance Table

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.3 Height of buildings Maximum height of building – none applicable	Y	<p>The development maintains the following maximum building heights:</p> <p>Warehouses 1 to 4 (inclusive) 13.7m Warehouses 5 to 6 12.2m</p> <p>These building heights are considered to be consistent with the objectives of Clause 4.3, as they facilitate appropriate development density, given the industrial land use zoning of the site and the compliant FSR of the development. Shadow diagrams submitted with the application demonstrate that the development does not overshadow the existing residential development, to the south and west of the site.</p>
4.4 Floor space ratio (FSR) – maximum 1:1	Y	The development comprises a total gross floor area (GFA) of 72,625sqm, which

		equates to a total FSR of 0.56:1 across the 129,868sqm site area.
Minimum lot size – 1,500sqm	Y	The proposed Site 1 maintains an area of 129,868sqm and Site 2 has a proposed area of 10,735sqm.
5.10 Heritage Conservation	Y	<p>The site comprises land that is within an archaeological item, being the 'Clyde Marshalling Yards' (Item no. A50).</p> <p>In accordance with the provisions of Clause 5.10(7) the Heritage NSW Council (now Heritage NSW) was notified of the application and provided with the Heritage Impact Statement and the supplementary Heritage Significance letter which accompanied the application.</p> <p>A response was received from Heritage NSW, who noted that <i>when initially listed this part of the Clyde Marshalling Yards had some limited archaeological potential related to railway uses and technologies but subsequent removal of elements in the intervening time has meant that the area has little or no significant historical archaeology left on site.</i></p> <p><i>Review of the proposal and the DA documents by Heritage NSW indicates that there would be little to no impact to historical archaeology as 'relics' within the meaning of the NSW Heritage Act 1977 are unlikely to survive the site.</i></p> <p><i>Therefore there are no specific conditions required to manage an archaeological program as no such program would be required.</i></p> <p><i>It is unlikely that any 'relics' would be found at the site, however, if the DA is approved by Cumberland Council, then a condition could be imposed.</i></p> <p>The condition of consent, as detailed by Heritage NSW, has been included as a recommended condition of consent.</p>
6.1 Acid Sulphate Soils	Y	<p>The northern half of the site comprises Class 4 acid sulphate soils and the southern half of the site comprises Class 5 acid sulphate soils.</p> <p>As part of DA2019/307 for demolition and bulk earthworks across the site, a Preliminary Acid Sulphate Soils Assessment was provided which concluded that there is a very low probability of acid sulphate soils at the site and that an Acid Sulphate Soils Management Plan is not required.</p>

		<p>The Preliminary Acid Sulphate Soils Assessment was endorsed as part of DA2019/307 and conditions imposed, to ensure that excavation works are closely monitored to ensure no signs of Potential Acid Sulphate Soil or Actual Acid Sulphate Soil are observed.</p> <p>A condition has been recommended as part of this consent to address acid sulphate soils during the excavation stage of the development. If any acid sulphate indicators are observed, excavation of the site is to be stopped immediately, the Principal Certifier is to be notified and a suitably qualified environmental scientist should be contracted to further assess the site.</p>
6.2 Earthworks	Y	<p>Bulk earthworks for the site have been approved under DA2019/307. Earthworks associated with the proposed building construction relate to excavation for basement levels and minor grading to achieve the building footprints.</p> <p>Conditions of consent have been recommended to ensure compliance with the provisions of Clause 6.2(3)(a) to (g).</p>
6.3 Flood Planning	Y	N/A – the site is not flood affected.
6.5 Essential Services	Y	<p>Conditions of consent have been recommended to ensure that adequate arrangements are made for the supply of water, electricity, management of sewage and stormwater to the site as part of the development. The application has demonstrated that suitable road access is provided to service the development and conditions of consent relating to the construction of the roundabout on Manchester Road and access off Sydney Trains land to the west have been recommended.</p>

The provisions of any proposed instrument that is or has been the subject (EP&A Act s4.15 (1)(a)(ii))

(a) Draft State Environmental Planning Policy (Environment)

The draft SEPP relates to the protection and management of our natural environment with the aim of simplifying the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. The changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The draft policy will repeal the above existing SEPPs and certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 117 Local Planning Directions where appropriate.

The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))

The Auburn Development Control Plan 2010 (ADCP 2010) provides guidance for the design and operation of development to achieve the aims and objectives of the ALEP 2010.

A comprehensive assessment and compliance table is contained in **Attachment 3** to this Report.

The following table highlights non-compliances with the provisions of the ADCP 2010 at the Industrial Areas part, which relate primarily to car parking within the front setback area, provision of landscaping and hours of operation. The variations sought are considered satisfactory on merit in this instance:

Figure 5 – Auburn DCP 2010 Non-compliance Table

Section	Control	Proposed	Complies
3.2 Front setbacks	D2 Front setback areas shall not be used for car parking, storage or display of goods.	Car parking is proposed within the front setback of the development along the site's southern front boundary.	No
4.0 Landscaping	<p>D5 In open parking areas, 1 shade tree per 10 spaces shall be planted within the parking area.</p> <p>D6 A minimum of 15% of the site shall be provided and maintained as soft landscaping, with lawns, trees, shrubs, for aesthetic purposes and the enjoyment of workers of the site.</p>	<p>Strict compliance with this requirement has not been achieved in some of the at-grade parking areas.</p> <p>A total of 9% of the area of the proposed lot on which the buildings are to be constructed comprises soft landscaping.</p>	No
8.1 Hours of operation	D1 Where an industrial site is located adjacent to or within 200m of a residential zoned area or where in the opinion of Council truck movements associated with the industry will intrude on residential streets, hours of operation shall generally be restricted to 7:00am to 6:00pm Monday to Saturday.	The development proposes 24/7 operating hours.	No

As indicated in the compliance table above, the proposed development departs from the front setback, landscaping and hours of operation controls at the Industrial Areas part of the ADCP 2010. A justification for these variations is provided below.

3.2 Front setbacks

Having regard to the car parking areas proposed along the site's southern frontage, within the front building setback area, it is noted that the hardstand car parking areas commence after the required minimum 4.5 metre setback from the site boundary. This front setback area is embellished with landscape planting and provides a buffer between the carpark areas and the road and residential development to the north of the site.

Further, the car parking areas forward of the building line provide an increased building setback from the road. The increased building setback, coupled with the landscape buffer, contribute to minimising the visual bulk and scale of the development on the streetscape.

For these reasons a variation to control D1 at Section 3.2 of the Industrial Areas part of the ADCP 2010 is considered acceptable.

4.0 Landscaping

The proposed development does not achieve strict compliance with the requirement for a minimum of one (1) shade tree to be provided for every ten (10) car parking spaces. It is acknowledged that whilst the majority of the car parking areas and spaces are generally compliant with this requirement, there are rows of car parking where a tree is provided every 11 to 12 spaces. The car parking areas are dispersed across the site, in relation to the six (6) warehouse buildings, including the Hub attached to Building 1. The fact that the car parking for the site is distributed rather than being a single hardstand area for parking results in each parking area being surrounded by landscaping. This non-compliance is considered to be a minor departure and a variation to the control is supported on merit.

It is also acknowledged that a total of 9% of the site area comprises landscaping, a shortfall from the minimum 15% requirement. Having regard to the proposed landscape design across the site around the perimeter of the site as well as around the proposed buildings, the proposed landscape area is considered adequate for the site. Further, the reduced area of soft landscaping provided does not raise any issues with respect to stormwater management. For these reasons, a departure from this control is considered acceptable on merit.

8.1 Hours of operation

Consent is sought for the 24/7 operation of the site. Having regard to the proposed hours of operation, the following matters have been included in the recommended conditions of consent, to mitigate potential operational impacts of the development on surrounding existing residential properties, a condition of consent has been recommended requiring the preparation of an Operational Management Plan for the site, which includes a provision to restrict the use of Chisholm Road for heavy vehicles between the hours of 10.00pm and 6.00am.

Further, the design of the development has placed vehicle turning areas and loading docks within the site, on the northern side of the buildings, to ensure that these areas do not directly interface with the surrounding residential development.

In accordance with the recommendations of the Noise and Vibration Impact Assessment, conditions have been recommended to ensure the implementation of the following noise mitigation measures:

- The construction of a 1.8 metre high acoustic wall along the western boundary of the site, to mitigate noise impacts on receivers to the west.
- At property treatments for those properties in proximity to the proposed roundabout, subject to further detailed acoustic modelling.
- Roller doors/shutters to the loading dock areas of the tenancies being closed during night-time hours during internal loading/unloading activities.

Having regard to the above discussion, the abovementioned departures from the ADCP 2010 control in relation to hours of operation, are considered acceptable on merit and may be supported for the reasons detailed above.

The provisions of 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 (EP&A Act s4.15(1)(a)(iii))

There is no draft planning agreement associated with the subject Development Application.

The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))

The proposed development raises no concerns as to the relevant matters arising from the Environmental Planning and Assessment Regulations 2000 (EP&A Reg).

The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))

The development is providing an employment generating land use, consistent with the objectives of the Cumberland Employment and Innovation Lands Strategy 2019 (The Strategy), which was adopted by Council

in May 2019. The Strategy provides a strategic and coordinated approach that has been developed by Council in consultation with the community and industry to support future economic opportunities for Cumberland that will continue to make the area an attractive place for residents, workers and visitors.

The development of the site for industrial land uses contributes to the development of the Services and Innovation precinct of the Cumberland LGA, as identified in The Strategy, by providing new service, research and innovation activities, within the industrial land use setting.

The development is providing opportunities for economic and social growth within the locality as well as the broader LGA, through employment opportunities and income generation.

For the reasons detailed above, it is considered that the proposed development will facilitate positive environmental, social and economic impacts in the locality.

The suitability of the site for the development (EP&A Act s4.15 (1)(c))

The proposed development is providing a well-designed industrial land use, on land zoned for industrial development. The subject site is not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Potential impacts on existing surrounding development, including existing residential development, have been addressed to ensure traffic, noise and environmental impacts are adequately mitigated.

Accordingly, it is considered that the development is suitable in the context of the site and surrounding locality.

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Advertised (newspaper) ☒

Mail ☒

Sign ☒

Not Required ☐

In accordance with Council's Notification requirements contained within the ADCP 2010, the proposal was publicly notified for a period of fourteen (14) days between 5 November 2019 and 19 November 2019. The notification generated a total of nine (9) submissions in respect of the proposal, with no submissions disclosing a political donation or gift. The issues raised in the public submissions are summarised and commented on as follows:

Figure 6 – Submissions summary table

Issue	Planner's Comment
<i>Proposed 24/7 operation is not acceptable as access to the proposed site would need to pass through residential streets thus contributing to further noise and air pollution.</i>	In order to mitigate the impacts of heavy vehicle movements on the local street network, a condition of development consent has been recommended requiring the preparation of an Operational Management Plan for the site, which includes a provision to restrict the use of Chisholm Road for heavy vehicles between the hours of 10.00pm and 6.00am.
<i>The buildings are higher, bigger and denser than anything in the Auburn area and can only be described as an eyesore.</i>	The compliance with building setbacks, FSR and an acceptable building height, as well as the use of range of materials, colours and finishes in the design of the buildings, presents a development which is responsive to the site. The development is considered to satisfy the built form objectives of the ADCP 2010, as discussed in this report.
<i>There is minimal landscaping proposed for the development.</i>	It is also acknowledged that a total of 9% of the site area comprises landscaping, a shortfall from the minimum 15% requirement. Having regard to the proposed landscape design across the site around the perimeter of the site as well as around the proposed buildings, the proposed landscape area is considered adequate for the site. Further, the reduced area of soft landscaping provided does not raise any issues with respect to stormwater

	management. For these reasons, a departure from this control is considered acceptable on merit.
<i>The proposed building height is extreme.</i>	Whilst there is no maximum building height applicable to the site, the proposed building heights, which range from between 12.2m to 13.7m are considered acceptable having regard to the objectives of the ALEP 2010. Refer to the discussion in the ALEP 2010 section of this report.
<i>The proposed 3 metre high earth pad on top of existing ground level increases the overall height of the buildings and as this part of Auburn is particularly flat, the sounds carry at night.</i>	The application has been accompanied by a Noise and Vibration Impact Assessment which has been assessed by Council's Environmental Health Unit and conditions of consent recommended to mitigate noise impacts on surrounding residential receivers, generated by the development.
<i>We would like assurances from Council that the proposed contamination action will be monitored by suitably qualified supervisors and ensure that the local resident's health is not put at risk.</i>	This issue has been previously addressed as part of DA2019/30, which approved the bulk earthworks and remediation activities across the site. Conditions of consent were imposed to ensure that remediation works are undertaken in accordance with the endorsed Remedial Action Plan and that a Site Auditor is engaged to oversee this process. A condition was also included to ensure that a Validation Report is prepared in accordance with the <i>Contaminated Lands Management Act 1997</i> and relevant guidelines endorsed by the EPA, prior to the issue of any Occupation Certificate, to ensure that the site is suitably remediated.
<i>The DA provides no proposed help to the Council to mitigate the extra traffic flow which will only exacerbate the current traffic problem with increased traffic.</i>	The development has been assessed by Council's Traffic Engineers and TfNSW and conditions of consent have been recommended accordingly.
<i>The proposed site is very secluded and the residents fear at night it could be used for various illegal activities, so crime prevention measures are required.</i>	The application has been accompanied by a Crime Prevention Through Environmental Design (CPTED) Assessment which has considered the development in relation to the four CPTED principles of surveillance, access control, territorial reinforcement and site and activity management. Recommendations have been made and incorporated into the recommended conditions of consent.
<i>Car parking spaces are insufficient for the proposed development.</i>	Car parking in excess of the minimum ADCP 2010 requirement has been provided for the development. The ADCP 2010 requires a total of 412 spaces for the warehouse and office uses and in the order of 19 spaces for the proposed café use. A total of 596 car parking spaces are proposed for the development. The additional parking contributes to a future-proofing of the development, to ensure that on-street car parking is not impacted now and into the future lifespan of the development.
<i>The DA indicates that only Manchester Road and the Private Road are designated as suitable for certain heavy vehicles. How can the Council ensure that Chisholm Road and other parts of Auburn do not become an alternative route for heavy vehicles.</i>	In order to mitigate the impacts of heavy vehicle movements on the local street network, a condition of development consent has been recommended requiring the preparation of an Operational Management Plan for the site, which includes a provision to restrict the use of Chisholm Road for

	heavy vehicles between the hours of 10.00pm and 6.00am.
<i>The number of potential employment places has been inflated.</i>	The development provides an employment generating land use which will contribute to the provision of additional jobs within the Cumberland LGA.
<i>The developer has shown an access/egress point onto the private railway road that abuts the development. The railway has frequently refused such a link, there is nothing in the documentation that the developer has been able to convince the railway to change its mind in relation to access to this road.</i>	The concurrence of Sydney Trains has been obtained as part of the development assessment process.
<i>Public notification by the developer was very limited.</i>	In accordance with Council's Notification requirements contained within the ADCP 2010, the proposal was publicly notified for a period of fourteen (14) days between 5 November 2019 and 19 November 2019. A site notice was placed on the subject site, an ad was placed in the local newspaper and surrounding residents were notified via letter.
<i>This DA was released for comment without noting that it is entirely dependent on DA-307/2019, the two DAs should have been circulated together.</i>	As discussed above, the development application has been notified in accordance with Council's notification requirements. DA2019/307 (bulk earthworks) and DA2019/329 (warehousing) were lodged as two separate DAs and there is no legislative requirement for these to be circulated together.
<i>Despite asking for industrial development, the local people do not have to accept a lousy development.</i>	The development has been assessed against the relevant legislation and policies and is considered to have a satisfactory outcome pursuant to the provisions of Section 4.15 of the EP&A Act and is therefore recommended for approval, subject to conditions.
<i>The developers need to have excellent drainage ideas and have developed plans for dealing with any spills from trucks entering or leaving the site, especially from the access and egress point closest to the creek.</i>	Council's Development Engineers have reviewed the proposed drainage design and have recommended conditions of consent to ensure that the development achieves an appropriate outcome having regard to drainage and stormwater management.
<i>It is an overdevelopment of the site.</i>	The development is compliant with the maximum FSR applicable to the site, i.e. 1:1, with a total FSR of 0.56:1 proposed.
<i>Considering the 24/7 operation, sleep deprivation can lead to a lot of situations in a person's life leading people to commit suicide and bearing in mind this area is very heavily populated with the elderly and young people.</i>	The application has been accompanied by a Noise and Vibration Impact Assessment which has been assessed by Council's Environmental Health Unit and conditions of consent recommended to mitigate noise impacts on surrounding residential receivers, generated by the development.
<i>Overshadowing is an issue due to the size and height of the development.</i>	Shadow diagrams have been provided which demonstrate that overshadowing impacts of the development on the land to the south of the site are negligible. The development largely overshadows itself, with minimal overshadowing to the adjoining property to the north at 3pm. The overshadowing

	generated by the development is considered acceptable.
<i>The surrounding area will lose on-street parking.</i>	Car parking in excess of the minimum ADCP 2010 requirement has been provided for the development. The ADCP 2010 requires a total of 412 spaces for the warehouse and office uses and in the order of 19 spaces for the proposed café use. A total of 596 car parking spaces are proposed for the development. The additional parking contributes to a future-proofing of the development, to ensure that on-street car parking is not impacted now and into the future lifespan of the development.
<i>The flying fox colony will be impacted by noise generated on a 24/7 basis.</i>	Conditions of consent have been recommended to manage potential impacts of the development on the flying fox population.
<i>The proposed industrial development ignores the potential linkages of the Manchester Road employment lands to their broader surrounds and it represents a missed opportunity to enhance such connections</i>	The proposed development does not preclude the potential for future linkages of the Manchester Road employment lands to their broader surrounds. This is a matter for further detailed strategic exploration.

The public interest (EP&A Act s4.15(1)(e))

In view of the foregoing analysis it is considered that the development, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

SECTION 7.11 (FORMERLY S94) CONTRIBUTION TOWARDS PROVISION OR IMPROVEMENT OF AMENITIES OR SERVICES

On 15 January 2020, the Cumberland Local Infrastructure Contributions Plan (Cumberland Contributions Plan) came into effect and applies to all land within the Cumberland Local Government Area (LGA).

The Cumberland Contributions Plan includes saving provisions for those development applications lodged prior to the adoption of the Cumberland Contributions Plan, which provides that:

Applications for development consent that were made before this plan commenced will be determined against the contributions plan that applied at the date the application was lodged.

When development consent includes a condition requiring payment of a development contribution and that condition is affected by a proposed application to modify the consent, the contribution shall be amended as if the contribution plan referenced within the condition is still in force.

At the time of lodgement of this application, the Auburn Development Contributions Plan 2007 (Auburn Contributions Plan) was the Section 7.11 plan in force and the contribution rate applicable to the development has therefore been calculated based on the provisions of the Auburn Contributions Plan.

The contribution fee payable is \$803,225.13 (calculated on a total construction cost of \$80,322,513). This figure is subject to indexation as per the relevant plan. The recommended conditions of consent include a condition requiring payment of the contribution prior to the issue of a Construction Certificate.

DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

The Applicant and notification process did not result in any disclosure of Political Donations and Gifts.

CONCLUSION

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*, SEPP 55, SEPP 64, ISEPP, Vegetation SEPP, Coastal Management SEPP, SREP 2005, ALEP 2010 and ADCP 2010 and is considered to be satisfactory for approval, subject to conditions.

The proposed development is appropriately located within the IN1 land use zone, under the relevant provisions of the ALEP 2010. The proposal is consistent with all statutory and non-statutory controls applying to the development. Minor non-compliances with Council's controls have been discussed in the body of this report. The development is considered to perform adequately in terms of its relationship to its surrounding built and natural environment, particularly having regard to impacts on adjoining properties.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and the development may be approved subject to conditions.

RECOMMENDATION

- 1. That Development Application No. DA2019/329 for the staged construction of six industrial warehouse buildings with ancillary office spaces to operate 24 hours a day 7 days a week, cafe area, associated car parking and infrastructure works including site entries from Manchester Road, roundabout, lot boundary adjustment and landscaping on land at Manchester Road AUBURN NSW 2144 be approved subject to attached conditions listed in the attached schedule.**
- 2. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.**

ATTACHMENTS

1. Draft Notice of Determination
2. SEPP 64 Assessment Table
3. Auburn DCP 2010 Assessment Table
4. Submissions Received
5. Architectural Plans
6. Landscape Plans
7. Civil Plans
8. Transport Assessment
9. Noise and Vibration Impact Assessment
10. CPTED Assessment
11. DA2019/307 Development Consent and Endorsed Plans