

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

### 1 Environmental Planning and Assessment Act 1979

#### 1.1 Section 4.15 'Heads of Consideration'

Heads of Consideration	Comment	Complies
a. The provisions of: (i) Any environmental planning instrument (EPI)	<p>The proposal is considered to be consistent with the relevant EPIs, including:</p> <ul style="list-style-type: none"> <li>Protection of the Environment Operations Act 1995</li> <li>Biodiversity Conservation Act 2016</li> <li>Sydney Regional Environmental Plan (State and Regional Development ) 2011</li> <li>State Environmental Planning Policy No. 33 - Hazardous and Offensive Development</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River</li> <li>Blacktown Local Environmental Plan 2015</li> <li>Blacktown Development Control 2015</li> <li>Central City District Plan 2018.</li> </ul> <p>The new Clause 27 in Division 3 of the Infrastructure SEPP makes electronic data storage facilities permissible with consent in Business and Industrial zones where 'warehouse or distribution centres' are currently permissible with consent.</p> <p>Nevertheless, the proposed data centre falls within the definition of a 'high technology industry - information technology' which is a type of light industry and is permissible within the IN2 Light Industrial zone under Blacktown Local Environmental Plan 2015.</p>	Satisfactory, subject to conditions of consent
(ii) Any proposed instrument that is or has been the subject of public consultation under this Act	Not applicable	Not applicable
(iii) Any development control plan (DCP)	The proposal is consistent with Blacktown Development Control Plan 2015, subject to a merit assessment of car parking provision on site.	No, but satisfactory and subject to conditions
(iii a) Any Planning Agreement	There are no planning agreements associated with this proposal.	Not applicable
(iv) The regulations	The proposal is consistent with the regulations.	Yes

Heads of Consideration	Comment	Complies
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	<p>It is considered that the likely impacts of the development, including access, traffic and parking, trees and landscaping, design, bulk and scale, overshadowing, noise, privacy, waste management and stormwater management have been satisfactorily addressed, subject to conditions, and specifically to retain the existing 2 trees along the south-western boundary as discussed in the Assessment report.</p> <p>A site analysis was undertaken to ensure that the proposed development will have minimal impacts on surrounding properties. In view of the above it is believed that the proposed development will not have any adverse social, economic or environmental impacts.</p>	Yes subject to conditions
c. The suitability of the site for the development	The site is zoned IN2 Light Industrial under Blacktown Local Environmental Plan 2015. The proposed data centre is defined as 'high technology industry - information technology' which is a type of light industry and is permissible on the site with development consent. The proposed data centre is also a permissible development under Clause 27 in Division 3 of the Infrastructure SEPP.	Yes
d. Any submissions made in accordance with this Act, or the regulations	No submissions were received as part of the public notification process.	Not applicable
e. The public interest	The provision of a new data centre is considered to be in the public interest because it provides storage of electronic data for both private companies and public authorities which increasingly forms a critical part of the State's infrastructure, as new technologies requiring data storage become commonplace. New federal laws requiring data retention by Internet Service Providers is also creating additional demand for data centres.	Yes

## 2 Protection of the Environment Operations Act 1995

Summary comment	Complies
<p>The objective of the Protection of the Environment Operations Act 1995 is to protect, restore and enhance the quality of the environment in New South Wales having regard to the need to maintain ecologically sustainable development.</p> <p>Schedule 1 Scheduled activities, Part 1 Premises-based activities, subclause 9 Chemical Storage identifies the criteria for a scheduled activity. Petroleum products (including diesel) storage is declared to be a scheduled activity if it meets the criteria of capacity to store more than 200 tonnes of liquefied gases or 2,000 tonnes of chemicals in any other form.</p> <p>The use proposes to store a base diesel tank of 777,600 litres for back-up generators. It would equate to approximately 778 tonnes of chemicals in any other form. As such, the amount of petroleum proposed to be stored on site does not require a licence from the EPA. Nevertheless, a condition of consent will be imposed for the applicant to limit the storage of diesel fuel to the volume specified only, and to meet SafeWork NSW requirements to enable this diesel storage on the site.</p>	Not applicable as threshold is not achieved

### 3 Biodiversity Conservation Act 2016

Summary comment	Complies
<p>The Biodiversity Conservation Act 2016 aims to maintain a healthy, productive and resilient environment for the greatest wellbeing of the community, now and into the future, consistent with the principles of ecologically sustainable development</p> <p>A Biodiversity Constraints Report dated November 2019 and an assessment prepared by WSP was submitted in support of the application. The assessment concluded that the proposal is unlikely to constitute a significant impact on Cumberland Plain Woodland given:</p> <ul style="list-style-type: none"> <li>the proposal would remove less than 0.5 ha of vegetation of which no native vegetation is proposed to be cleared</li> <li>the existing 4 trees within the Cumberland Plain Woodland are proposed to be retained</li> <li>there is no threatened species, populations or threatened ecological communities to be significantly impacted by the proposal.</li> </ul> <p>The report was reviewed by our Ecology Officer who raises no objection to the proposal.</p>	Yes, subject to condition of consent

### 4 State Environmental Planning Policy (State and Regional Development) 2011

Summary comment	Complies
<p>The Sydney Central City Planning Panel (SCCPP) is the consent authority for all development with a capital investment value (CIV) of over \$30 million.</p> <p>As this DA has a CIV of \$46,141,584, Council is responsible for the assessment of the DA and determination of the application is to be made by the Panel.</p>	Yes

### 5 State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

Summary comment	Complies
<p>Clause 13 - Matter for consideration by consent authority</p> <p>In determining whether the proposed development constitutes 'potentially hazardous development' under SEPP 33, an assessment against the Department of Planning's 'Applying SEPP 33 Guidelines' has been undertaken.</p> <p>The applicant has indicated that the aboveground fuel tanks along the northern and southern sides of the proposed data centre building will be used to store diesel fuel tanks, to facilitate the operation of the back-up generators when required in an emergency situation such as a power failure. According to the SEPP, this type of fuel storage tanks is class C1 and these tanks will be stored in a separate bund or within a storage area where they are the only flammable liquid present.</p> <p>The quantity and chemical make-up of the fuel being stored on the site will not result in the site being identified as a potentially hazardous industry under the provisions of SEPP No. 33. However, diesel fuel storage is defined as dangerous goods under NSW workplace legislation and SafeWork NSW is to be notified and this will be a requirement imposed in the consent conditions.</p> <p>The proposal is considered to be capable of being conducted in a manner that is consistent with the aim, objectives and provisions of SEPP 33 and is supported.</p>	Not applicable as the threshold necessitating a preliminary hazard analysis is not met, but it is recommended that SafeWork NSW requirements be met for the proposal as a condition of the consent.

## 6 State Environmental Planning Policy (Infrastructure) 2007

Summary comment	Complies
<p>State Environmental Planning Policy (Infrastructure) 2007 ensures that the Roads and Maritime Services is made aware and allowed to comment on development listed under Schedule 3 of the SEPP. The proposed development does not have access to a classified road or a road that connects to a classified road within 90 metres. Therefore the SEPP does not apply to the proposal in terms of this element.</p> <p>The Infrastructure SEPP was amended in November 2019 to ensure that data storage centres are permissible in appropriate zones and are assessed in an appropriate way. This SEPP amendment has inserted a new Division 3 'Data storage'. The new Clause 27 in Division 3 makes electronic data storage facilities permissible with consent in Business and Industrial zones where 'warehouse or distribution centres' are currently permissible with consent.</p> <p>This SEPP also amends the State and Regional Development SEPP to insert a new provision: Clause 25 'Data storage'. This will ensure data storage centres are assessed under a consistent state-wide framework, with a Capital Investment Value threshold of \$50 million that determines which proposals are State Significant.</p> <p>A data centre under the SEPP is defined as:</p> <p style="padding-left: 40px;">"Data storage centres, or data centres, store electronic data for both private companies and public authorities".</p> <p>For the purposes of this SEPP, the subject proposal is intended to store electronic data and therefore the definition of data centre according to this SEPP is consistent with the proposed development.</p> <p>The subject application is not a State Significant Development as the CIV is under \$50 million.</p> <p>As the subject site is in the IN2 Light Industrial zone, the proposed data centre is a permissible development under this SEPP and under Blacktown LEP 2015.</p> <p>Based on the above, the subject application is consistent with the relevant provisions of the Data Storage SEPP and is satisfactory in this regard.</p>	<p>Not applicable</p> <p>Yes</p>

## 7 State Environmental Planning Policy No. 55 – Remediation of Land

Summary comment	Complies
<p>State Environmental Planning Policy 55 aims to 'provide a State-wide planning approach to the remediation of contaminated land'. Clause 7 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 Phase 1 Environmental Due Diligence Assessment was undertaken by WSP that confirmed the existing site, having been used as a warehouse, is of low contamination risk.</p> <p>A condition is to be imposed on the consent that, upon completion of remediation, a qualified environmental consultant is required to prepare a validation report in accordance with the NSW Environment Protection Authority's and the National Environment Protection Councils Measure 2013 Guidelines for contamination.</p>	<p>Yes, subject to conditions of consent</p>

## 8 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River

Summary comment	Complies
The planning policies and recommended strategies under SREP 20 are considered to be met through the development controls of the Blacktown Local Environmental Plan 2015 and the Blacktown DCP 2015. The development complies with the development standards and controls established within both the LEP and DCP. Therefore, the proposal is considered to satisfy Clause 4 of SREP 20.	Yes

## 9 Blacktown Local Environmental Plan 2015

Summary comment	Complies
The land is zoned IN2 Light Industrial under Blacktown Local Environmental Plan 2015. The proposed data centre falls within the definition of a 'high technology industry - information technology' which is a type of light industry and is permissible within the zone with consent.	Yes
<b>Clause 7.2 Terrestrial biodiversity</b> The site contains Cumberland Plain Woodland and is not identified as being biodiversity certified. An Assessment of Significance (5 part test) under the Biodiversity Conservation Act 2016 was required, however the proposal does not intend to disturb any native vegetation above the minimum clearing area. The existing 4 trees within the Cumberland Plain Woodland on the southern boundary of the site will be retained. The assessment concluded that the proposal is unlikely to constitute a significant impact on Cumberland Plain Woodland. Therefore, the assessment under the Biodiversity Conservation Act 2016 satisfies the requirements of this clause.	Yes
<b>Clause 7.5 Essential services</b> Adequate essential service arrangements will be made for the proposal.	Yes, subject to standard conditions

## 10 Blacktown Development Control Plan 2015<sup>[BO1]</sup>

Summary comment		
The provisions of Blacktown Development Control Plan 2015 (BDCP), in particular Part E – Development in the Industrial Areas are relevant to the proposal. We have assessed the DA against the relevant provisions and the table below identifies where compliance is not fully achieved.		
DCP requirement	Proposal	Complies
<b>Part A - General Guidelines</b> <b>6. Car Parking</b> Car parking is to be provided at the rate of 1 space per 75 sqm GFA Plus 1 space per 40 sqm GFA for the office component	The parking provision has been assessed on the merit of the use of the site as a data storage centre and any future change of use will need to free up the site for further parking. Refer to Section 7.2 of this report for further discussion. Council's Traffic Management Section has reviewed the proposal and the proposed car parking provision is satisfactory.	No, but satisfactory based on a merit assessment and the Adaptive Reuse Plan provided by the applicant.

## 11 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 DA is consistent with the following overarching planning priorities of the Central City District Plan:</p> <ul style="list-style-type: none"><li>• Improving access to jobs and services</li><li>• Contributing to the provision of services to meet communities' changing needs.</li></ul>	Yes