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| **COUNCIL ASSESSMENT REPORT**  SYDNEY SOUTH PLANNING PANEL | |

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| --- | --- |
| PANEL REFERENCE & DA NUMBER | PPSSSH-122 – DA-741/2022 |
| PROPOSAL | Demolition of existing structures, removal of site vegetation and retention of 6 trees, construction of 4 attached warehouse and distribution buildings for 24 hours, 7 days a week operation, ancillary office spaces, awnings, associated site preparation works, vehicular and pedestrian access, car parking and landscaping, 2 pylon signs and associated business identification signage. |
| ADDRESS | Lot 81 DP 1282378, No. 149 Orchard Road, Chester Hill NSW 2162 |
| APPLICANT | Dexus Wholesale Management Limited |
| OWNER | Tung Hui Chung, Tong Hong Chung and Chung Enterprise Pty Ltd |
| DA LODGEMENT DATE | 21/10/2022 |
| APPLICATION TYPE | Development Application |
| REGIONALLY SIGNIFICANT CRITERIA | Section 2.19(1) of *State Environmental Planning Policy (Planning Systems) 2021* declares the proposal regionally significant development as the Capital Investment Value is greater than $30 Million. |
| CIV | $33,770,000.00 |
| CLAUSE 4.6 REQUESTS | Not applicable |
| KEY SEPP/LEP/DCP | * *Biodiversity Conservation Act 2016* * *State Environmental Planning Policy (Biodiversity and Conservation) 2021* * *State Environmental Planning Policy (Industry and Employment) 2021* * *State Environmental Planning Policy (Planning Systems) 2021* * *State Environmental Planning Policy (Resilience and Hazards) 2021* * *State Environmental Planning Policy (Transport and Infrastructure) 2021* * *Bankstown Local Environmental Plan 2015 (BLEP 2015)* * *Bankstown Development Control Plan 2015 (BDCP 2015)* |
| TOTAL & UNIQUE SUBMISSIONS | Nil |
| DOCUMENTS SUBMITTED FOR CONSIDERATION | * Survey Plan * Architectural Plans * Demolition Plan * Landscape Plan * Geotechnical Report * Environmental Site Investigations Report * Contamination / Remediation Action Plan * Arboricultural Impact Assessment * Biodiversity and Ecological Assessment * Traffic and Transport Impact Assessment * Noise Impact Assessment * Air Quality Impact Assessment * Waste Management Plan * BCA and DDA Access Report * Flood Assessment * Flood Management Plan |
| SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24) | Not applicable |
| RECOMMENDATION | Approval |
| DRAFT CONDITIONS TO APPLICANT | Yes |
| SCHEDULED MEETING DATE | 18 September 2023 |
| PLAN VERSION | Architectural Plans, Revision T, Dated 10 July 2023 |
| PREPARED BY | Christopher Phu |
| DATE OF REPORT | 25 September 2023 |

**EXECUTIVE SUMMARY**

This matter is reported to the Sydney South Planning Panel as the proposed development exceeds a capital investment value of $30 million. In accordance with Clause 2.19(1) in Part 2.4 Regionally Significant Development and Schedule 6 in SEPP (Planning Systems) 2021, the proposed development is declared to be regionally significant.

Development Application No. DA-741/2022 proposes the demolition of existing structures, removal of site vegetation and retention of 6 on-site trees, construction of 4 attached warehouse and distribution buildings for 24 hours, 7 days a week operation, ancillary office spaces, awnings, associated site preparation works, vehicular and pedestrian access, car parking and landscaping, and 2 pylon signs and associated business identification signage.

DA-741/2022 has been assessed against the relevant provisions of the Biodiversity Conservation Act 2016, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Industry and Employment) 2021, State Environmental Planning Policy (Planning Systems) 2021, State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, Bankstown Local Environmental Plan 2015 (BLEP 2015) and the Bankstown Development Control Plan (BDCP 2015).

The application was advertised for 21 days between 2 November 2022 and 22 November 2022 in accordance with Council’s Community Participation Plan. No submissions were made during the assessment of the application.

1. **THE SITE AND LOCALITY**
   1. **The Site**

The subject site is known as Lot 81 in Deposited Plan 1282378, however is more commonly known as No. 149 Orchard Road, Chester Hill. The subject site is zoned IN1 General Industrial as prescribed by the zoning maps contained in the BLEP 2015.

The subject site is an irregular-shaped allotment with a primary frontage of 58m to Orchard Road (east), direct access to Miller Road via a 10.07m wide access handle at the rear (west), and a total site area of 38,983m2. It is noted that Miller Road is classified as a Regional Road under the NSW Road Network Classifications.

The subject site has an approximate depth of 309m and an approximate fall of 4.14m to the rear, from the eastern boundary (RL 24.46) to the western boundary (RL 20.32). The subject site comprises of existing warehouse/industrial buildings with associated parking, concrete pavements/driveways, and various trees.

The subject site is affected by medium and high-risk stormwater flooding from the Villawood Catchment, and is also subjected to a maximum 15.24m height limit in accordance with Bankstown Airport’s Obstacle Limitations Surface Map.

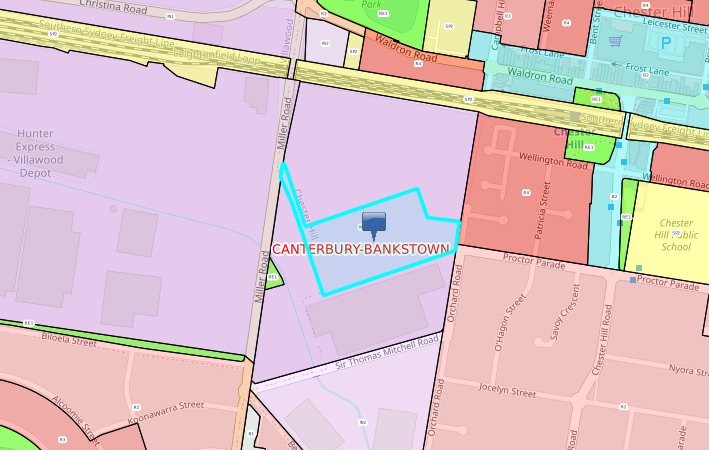
* 1. **The Locality**

To the immediate east of the site, across Orchard Road, is land that is zoned R2 Low Density Residential and R4 High Density Residential, and comprises of dwellings, dual occupancies, multi dwelling houses and secondary dwellings. To the immediate north, south and west is land that is zoned IN1 General Industrial, and comprises of industrial units/warehouses that vary in size, scale and operation. Approximately 370m to the east and northeast is the Chester Hill Public School and the Chester Hill train station.

In addition, the adjoining northern property at No. 191 Miller Road (Lot 82, DP 1282378) comprises of various industrial buildings and ancillary structures, including shipping containers. It is noted on Council’s records that No. 191 Miller Road is contaminated and is subject to a site management plan.



**Figure 1**: Aerial photo of subject site **Source**: Nearmap 2023

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**Figure 2**: Land Zoning of subject site **Source**: BLEP 2015 Land Use Maps

1. **THE PROPOSAL AND BACKGROUND** 
   1. **The Proposal**

The proposal seeks consent for the demolition of existing structures and construction of 4 attached warehouse and distribution buildings. Specifically the proposal involves:

* demolition of all structures on site,
* removal of site vegetation and retention of 6 trees,
* landscaping and tree planting works,
* construction of 4 attached warehouse and distribution buildings with ancillary office spaces, outdoor employee amenity areas and awnings,
* associated site preparation works,
* vehicular and pedestrian access,
* 82 car parking spaces (including 3 accessible spaces),
* two pylon signs and multiple business identification signage,
* easement for right of access along Miller Road frontage, and
* and relocation of Council’s stormwater pipe with associated stormwater drainage works.

The breakdown of the proposed warehouses, operating on a 24hour/7days basis, is provided in **Table 1**.

**Table 1**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Warehouse Unit** | **Warehouse GFA** | **Mezzanine** | **Office GFA** | **Total GFA** |
| 1 | 7510m2 | 400m2 | 50m2 | 7960m2 |
| 2 | 4155m2 | 400m2 | 50m2 | 4605m2 |
| 3 | 5190m2 | 400m2 | 50m2 | 5640m2 |
| 4 | 5395m2 | 400m2 | 50m2 | 5845m2 |
| Total | | | | 24050m2 |

The key development data is provided in **Table 2**.

**Table 2**

|  |  |
| --- | --- |
|  | **Proposal** |
| Site Area | 38,983m2 |
| Primary Frontage | 58m |
| GFA | 24,050m2 |
| FSR | 0.617:1 |
| Clause 4.6 Requests | No |
| No of Buildings | 1 |
| Max Height | 14.6m |
| Landscaped area | 1439.55m2 |
| Car Parking spaces | 82 (3 accessible parking spaces) |
| Setbacks | 21m setback to Orchard Road |
| Signage | 2 x pylon signs, 2 x free standing business identification signs and 4 x tenant identification signs |
| Easement for right of access | Along Miller Road |

* 1. **Background**

The development application was lodged on 21 October 2022. A chronology of the development application since lodgement is outlined below including the Panel’s involvement with the application:

**Table 3**

|  |  |
| --- | --- |
| **Date** | **Event** |
| 21 October 2022 | Lodgement of Application. |
| 2 November 2022 | Development Application was advertised for a period of 21 days, no submissions were received. |
| 6 December 2022 | Kick-Off Briefing (see key matters raised below). |
| 22 December 2022 | Transport for NSW conditions of consent provided. |
| 6 March 2023 | Council Briefing (see key matters raised below). |
| 15 March 2023 | Request for further information letter was issued (see key issues raised below). |
| 23 March 2023 | Virtual meeting with Applicant, Engineers, Town Planners, Council’s Development Engineer and Asset Planner regarding stormwater management designs. |
| 17 April 2023 | Amended plans and further documentations was submitted. |
| 18 July 2023 | Request for further information letter was issued (issues relating to Engineering and Stormwater Management concerns). |
| 21 July 2023 | Request for further information reiterating the points raised in the RFI, dated 18 July 2023, was issued (issues relating to Engineering and Stormwater Management concerns). |
| 29 August 2023 | Applicant and Panel Briefing |
| 7 September 2023 | Amended plans and further documentation was submitted. |

Two pre-lodgement meetings with Council were held on 1 December 2021 and 1 April 2022. A summary of the pre-lodgement concerns are outlined below:

* Large vehicles and trucks accessing the site off Orchard Road and the traffic impact to residential dwellings across Orchard Road,
* Vehicle manoeuvrability and access arrangements from Miller Road,
* The location of the pump house and sprinkler tank along Orchard Road,
* Design fails to achieve minimum front setback,
* Insufficient landscaping and tree planting,
* Insufficient outdoor employee amenities,
* Stormwater drainage and stormwater pipe design,
* Contamination of subject site,
* Consideration of contamination on No. 191 Miller Road if boundary adjustment is sought, and
* waste management concerns,

The applicant was advised prior to the lodgement of DA-741/2022 that any subdivision or boundary adjustment proposed would require consideration of the contamination on No. 191 Miller Road. Prior to the lodgement of the application, a boundary realignment for No. 149 Orchard Road was approved by the NSW Land Registry Services. The subdivision certificate was then submitted during the assessment of the application and forms the basis of the proposed redevelopment on No. 149 Orchard Road.

The Panel Briefing (kick-off briefing) was held on 6 December 2022, with a further Panel Briefing held on 6 March 2023. The table below outlines key matters raised in the Panel Briefings, and how these matters have been addressed.

**Table 4**

|  |  |
| --- | --- |
| **Key Issues** | **Solution** |
| The presentation to the residential area across Orchard Road. In particular, façade materials and articulation, landscaping, carparking in the setback and location of the pump house and sprinkler tank. | The applicant has amended the front parking layout to be setback 10m from the primary boundary. The sprinkler tank and pump house has been relocated closer to the front façade wall. The landscaping has been improved with additional tree planting between parking spaces and in landscaped areas. |
| The carparking exceeds the DCP requirement and could be reduced to provide more landscaping. In particular, between car spaces and to provide improved amenity for outdoor areas. | The number of parking spaces has been reduced to 82, which remains compliant with Council’s parking requirements. Tree planting has been implemented between parking spaces. The parking spaces within the front landscape have been deleted. |
| Resolution of the proposed culvert and easement and whether design changes are required. | The existing stormwater pipe, running across the middle of the site, is proposed to be relocated. Council’s Development Engineer and Asset Planner has reviewed the amended design and found it to be supportable, subject to conditions of consent. |
| The adequacy of Miller Road to provide access for heavy vehicles - width of the access way from Miller Road, manoeuvrability and turning left. | The submitted swept path plans have been reviewed by Council’s Traffic Management and Development Engineering Officers, who are satisfied with the manoeuvring of heavy vehicles from Miller Road. The easement for rights of way is considered to be acceptable. Conditions of consent have been provided by Traffic Management. Specifically, a no right turn sign will be reinstated prohibiting vehicles entering the site northbound on Miller Road, and no left turn will be allowed for large vehicles over 12.5m in length exiting the site onto Miller Road. |
| Whether a further boundary alignment is required for vehicular access and consideration of contamination and previous DA for No. 191 Miller Road. | The applicant has submitted a subdivision certificate that was approved by the NSW Land Registry Services, for the boundary realignment. The swept paths and manoeuvring of vehicles has been supported by Council’s Traffic Management Officer and Development Engineering Officer. It is noted that no further boundary realignment or amendments were required. |

Further to the above, the following table summarises the key issues raised in the Request for Further Information Letter, dated 15 March 2023, per the assessment against the relevant planning controls, and how the issues were resolved:

**Table 5**

|  |  |
| --- | --- |
| **Key Issues** | **Solution** |
| Streetscape presentation | The proposed pump house and sprinkler tank have been relocated further away from the frontage of Orchard Road and integrated with the front façade of the proposed development. It is considered that the pump house and sprinkler tank would not negatively contribute to the streetscape, rather it would remain consistent with the existing design on the southern adjoining property on No. 127 Orchard Road. |
| Minimum front setback | The amended parking spaces are setback at least 10m setback from the primary frontage. In addition, the proposed building achieves a minimum 20m setback to the primary frontage. As such, the proposed development complies with the primary setback requirements. |
| Landscaping and Tree Planting | The applicant has amended the landscape plan and architectural plans to facilitate sufficient planting of on-site trees. It is noted that the car parking layout has been reduced to accommodate planting of trees at a rate of 1 per 5 parking spaces and provide sufficient planting of trees along the primary frontage of the site. |
| Outdoor Employee Amenities | The applicant has amended the architectural plans to provide adequate landscaping and amenities to the outdoor employee areas. In addition, a common outdoor area is located within the primary frontage. |
| Stormwater Drainage and Stormwater Pipe Design | The amended Stormwater Drainage and relocated stormwater pipe design has been reviewed by Council’s Development Engineer and Asset Planner. The design is supportable, subject to conditions of consent. |
| Waste Management | The amended waste management plan have been supported by Council’s Waste Management Officer, who has provided conditions of consent. |
| Vehicular Access Arrangements | The manoeuvrability, traffic impacts and accessibility has been assessed by Council’s Development Engineer and Traffic Engineers, who have provided conditions of consent. |

* 1. **Site History**
     + To the immediate north of the subject site is No. 191 Miller Road (Lot 82, DP 1282378) which, according to Council’s records, is identified as contaminated and subject to a Site Management Plan.
     + On 25 September 2013, Council approved DA-702/2013 at No. 191 Miller Road for the use of the yard for the storage of building materials and framework, subject to Condition 5:

*5) The use of the site must be undertaken in accordance with “Site Management Plan, 191 Miller Rd, Chester Hill, NSW” by HLA Envirosciences, dated 22 August 2002 as a condition of Site Audit Statement No. 2002/13, issued by accredited site auditor, Ross McFarland, dated 30 August 2002.*

* + - Prior to the lodgement of this current DA-741/2022, the Applicant was advised in a Pre-Lodgment meeting that any proposed boundary readjustment between No. 149 Orchard Road and No. 191 Miller Road must consider contamination on both lots and demonstrate that both lots are suitable for redevelopment.
    - Concurrent to the proposed development, a boundary realignment was approved by the NSW Land Registry Services. The applicant has submitted the subdivision certificate and no boundary adjustment is sought under DA-741/2022.

1. **STATUTORY CONSIDERATIONS**

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (‘EP&A Act’). These matters as are of relevance to the development application include the following:

1. *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*

*(i)  any environmental planning instrument, and*

*(ii)  any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

*(iii)  any development control plan, and*

*(iiia)  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, and*

*(iv)  the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

*that apply to the land to which the development application relates,*

1. *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
2. *the suitability of the site for the development,*
3. *any submissions made in accordance with this Act or the regulations,*
4. *the public interest.*

It is noted that the proposal is not considered to be:

* Integrated Development (s4.46)
* Designated Development (s4.10)
* Crown DA (s4.33)
  1. **Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations**

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements, and the matters for consideration under the Regulation are considered below.

1. **Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments**

The following Environmental Planning Instruments are relevant to this application:

* [State Environmental Planning Policy (Biodiversity and Conservation) 2021](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0722)
* [State Environmental Planning Policy (Industry and Employment) 2021](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723)
* [State Environmental Planning Policy (Planning Systems) 2021](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724)
* [State Environmental Planning Policy (Resilience and Hazards) 2021](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730)
* [State Environmental Planning Policy (Transport and Infrastructure) 2021](https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732)
* Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP) 2023
* Bankstown Local Environmental Plan 2015 (BLEP 2015)

A summary of the key matters for consideration arising from these EPI’s are outlined in **Table 6** and considered in more detail below.

**Table 6**

| **EPI** | **Matters for Consideration** | **Compliance** | | |
| --- | --- | --- | --- | --- |
| **Y** | **N** | **NA** |
| State Environmental Planning Policy (Biodiversity and Conservation) 2021 | Chapter 2 Vegetation in non-rural areas | ✓ |  |  |
| State Environmental Planning Policy (Industry and Employment) 2021 | Chapter 3 Advertising and signage   * Division 2 Control of advertisements   + 3.11(1) Matters for consideration   Schedule 5 Assessment criteria | ✓ |  |  |
| State Environmental Planning Policy (Planning Systems) 2021 | Chapter 2 State and Regional Development   * Part 2.4 Regionally significant development   + 2.19 Declaration of regionally significant development: section 4.5(b)   Schedule 6 Regionally significant development | ✓ |  |  |
| State Environmental Planning Policy (Resilience and Hazards) 2021 | Chapter 4 Remediation of land   * 4.6 Contamination and remediation to be considered in determining development application | ✓ |  |  |
| State Environmental Planning Policy (Transport and Infrastructure) 2021 | Division 17 Roads and traffic   * 2.122 Traffic-generating development   Schedule 3 Traffic-generating development to be referred to TfNSW—Chapter 2 | ✓ |  |  |
| Bankstown Local Environmental Plan 2015 | Part 1 Preliminary   * Clause 1.2 – Aims of Plan   Part 2 Permitted or prohibited development   * Clause 2.3 – Zone Objectives and Land Use Table * Clause 2.7 -- Demolition requires development consent   Part 4 Principal development standards   * Clause 4.4 – Floor space ratio   Part 5 Miscellaneous provisions   * Clause 5.21 – Flood planning   Part 6 Additional local provisions   * Clause 6.1 – Acid sulfate soils * Clause 6.2 – Earthworks * Clause 6.4 – Biodiversity | ✓ |  |  |
| Canterbury-Bankstown Local Environmental Plan 2023 | Clause 1.8A – relating to savings provisions | ✓ |  |  |

**State Environmental Planning Policy (Biodiversity and Conservation) 2021**

**Chapter 2 Vegetation in non-rural areas**

The proposal has been assessed against the relevant aims and objectives of this State Environmental Planning Policy which seeks to protect remaining native vegetation within urban areas. The site does not contain remnant native vegetation and is therefore consistent with the aims of the instrument.

The proposed development seeks approval for the removal of 44 site trees and the retention of 6 site trees, with the planting of 63 trees. The proposed development was referred to Council’s Tree Management Officer for assessment and was found to be supportable subject to conditions requiring replacement plantings on site. As such, the proposal is considered suitable with respect to the requirements of the SEPP.

**State Environmental Planning Policy (Industry and Employment) 2021**

**Chapter 3 Advertising and signage**

Chapter 3 of Advertising and Signage of this SEPP aims to ensure advertising and signage relevant to the proposed development is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations, and is of a high-quality design and finish. The proposed pylon signs and various business/tenant identification signs have been assessed against this chapter of the SEPP, in particular the contents of Schedule 5 which is summarised in the table below.

**Table 7**

| **State Environmental Planning Policy (Industry and Employment) 2021 – Schedule 5 Assessment criteria** | **Compliance** | | |
| --- | --- | --- | --- |
| **Y** | **N** | **NA** |
| **1 Character of the area** | | | |
| * Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? | ✓ |  |  |
| * Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? | ✓ |  |  |
| **2 Special areas** | | | |
| * Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? | ✓ |  |  |
| **3 Views and vistas** | | | |
| * Does the proposal obscure or compromise important views? | ✓ |  |  |
| * Does the proposal dominate the skyline and reduce the quality of vistas? | ✓ |  |  |
| * Does the proposal respect the viewing rights of other advertisers? | ✓ |  |  |
| **4 Streetscape, setting or landscape** | | | |
| * Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? | ✓ |  |  |
| * Does the proposal contribute to the visual interest of the streetscape, setting or landscape? | ✓ |  |  |
| * Does the proposal reduce clutter by rationalising and simplifying existing advertising? | ✓ |  |  |
| * Does the proposal screen unsightliness? | ✓ |  |  |
| * Does the proposal protrude above buildings, structures or tree canopies in the area or locality? | ✓ |  |  |
| * Does the proposal require ongoing vegetation management? | ✓ |  |  |
| **5**   **Site and building** | | | |
| * Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? | ✓ |  |  |
| * Does the proposal respect important features of the site or building, or both? | ✓ |  |  |
| * Does the proposal show innovation and imagination in its relationship to the site or building, or both? | ✓ |  |  |
| **6**   **Associated devices and logos with advertisements and advertising structures** | | | |
| * Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? | ✓ |  |  |
| **7**   **Illumination** | | | |
| * Would illumination result in unacceptable glare? | ✓ |  |  |
| * Would illumination affect safety for pedestrians, vehicles or aircraft? | ✓ |  |  |
| * Would illumination detract from the amenity of any residence or other form of accommodation? | ✓ |  |  |
| * Can the intensity of the illumination be adjusted, if necessary? | ✓ |  |  |
| * Is the illumination subject to a curfew? | ✓ |  |  |
| **8**   **Safety** | | | |
| * Would the proposal reduce the safety for any public road? | ✓ |  |  |
| * Would the proposal reduce the safety for pedestrians or bicyclists? | ✓ |  |  |
| * Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? | ✓ |  |  |

As seen above, the proposed development complies with the requirements in Schedule 5 of SEPP (Industry and Employment) 2021.

**State Environmental Planning Policy (Planning Systems) 2021**

As outlined in Clause 2.19(1) of Part 2.4 and Schedule 6 of this SEPP, the proposed development is declared regionally significant development as the capital investment value exceeds $30 million (i.e. $33,770,000). DA-741/2022 is accordingly reported to the Sydney South Planning Panel for determination.

**State Environmental Planning Policy (Resilience and Hazards) 2021**

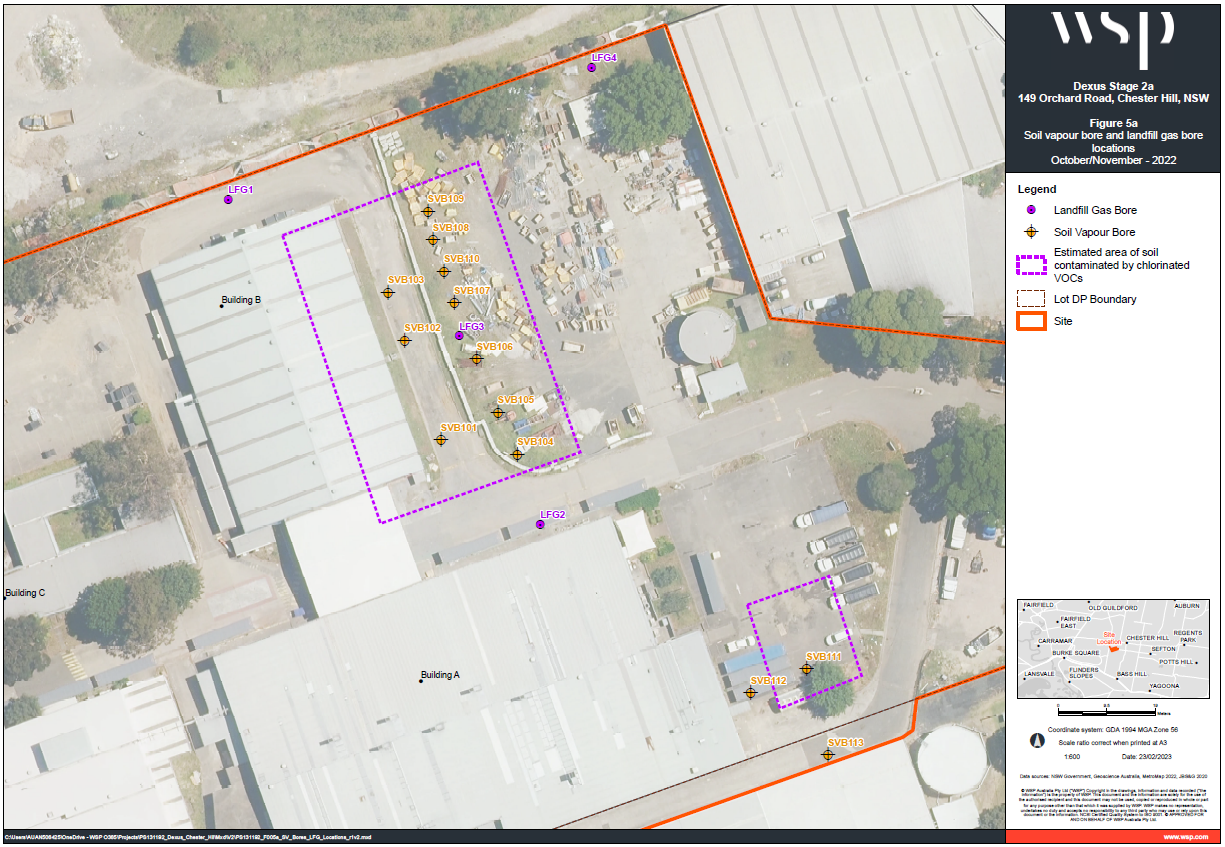
**Chapter 4 Remediation of land**

Chapter 4, Section 4.6 of this SEPP requires a consent authority to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, the consent authority must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make it suitable for the proposed use, the consent authority must be satisfied that the land will be remediated before the land is used for that purpose.

The applicant has submitted a Detailed Site Investigation, in support of the application, by Natalie Sandy and Adrian Heggie titled, “*Additional Environmental Site Investigations,149 Orchard Road, Chester Hill, NSW”,* dated 17 May 2023, Revision 2. The Detailed Site Investigation has been reviewed by a NSW Environment Protection Authority Accredited Site Auditor. The report concludes that the subject site can be made suitable for the proposed industrial warehousing redevelopment with appropriate management (i.e. remediation and enduring risk management), in the context of managing ongoing contamination. The report recommends the following key elements required to facilitate the proposed redevelopment:

* Completion of a Remediation Action Plan.
* Once the current site structures have been demolished and existing concrete slab removed, a program of assessment will be required to better define the extent of the soil source of chlorinated hydrocarbons. Based on the outcome of this assessment the specific extent of any remedial or risk mitigation requirements will be confirmed.
* Consideration of subsurface conditions and remedial works or management of residual risk.
* On competition of assessments to confirm conditions beneath existing hardstand areas regarding chlorinated hydrocarbons and potential ACM, a Remediation Implementation Plan will be completed to define the process of remediation and enduring environmental management.
* Any enduring management requirements will be captured within an Environmental Management Plan.
* The auditor will issue an Interim Auditor Advice documentation at progressive stages of development. These documents will all be required by the auditor to facilitate preparation of their Site Audit Statement on completion of all remediation works.

The Remediation Action Plan (RAP) was submitted to Council for review and assessment. The RAP notes that on-site and offsite groundwater contamination do not constitute a site sourced risk and require no management or remedial intervention. However, there is a reasonable probability that unacceptable vapour intrusion rates may exist in the source area of chlorinated VOCs under and to the east of the existing Building B and, to a lesser degree, Building A (see figure below). The RAP concludes that with appropriate management, the sites contamination will not preclude the proposed industrial development, subject to remediation guidance and strategies included in the RAP. It is noted that Council’s Environmental Health Officer has reviewed the RAP and provided conditions of consent.



**Figure 3**: Estimated area of soil Contaminated by Chlorinated VOCs

**Source**: RAP Dated 08/03/2023

Having regard to the assessment above, the applicant has demonstrated that the site is suitable for the proposed development with appropriate remediation management, subject to conditions of consent. As such, the proposed development satisfies the provisions of Chapter 4, Section 4.6 of this SEPP.

**State Environmental Planning Policy (Transport and Infrastructure) 2021**

**Division 17 Roads and traffic**

As outlined in Clause 2.122, Subdivision 2 in Division 17 and Schedule 3 of this SEPP the proposed development is considered to be a traffic-generating development as the proposal exceeds 8,000m2 in gross floor area. The development application was referred to Transport for NSW (TfNSW) who have raised no objections, subject to conditions of consent relating to car parking layouts for heavy vehicle usage, public utility adjustments/relocation works, the entering and exiting of all vehicles in the forward direction, and the preparation of a Construction Pedestrian Traffic Management Plan.

**Canterbury-Bankstown Local Environmental Plan 2023**

Clause 1.8A “Savings provision relating to development applications”of the Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP) states;

“*If a development application has been made before the commencement of this plan in relation to land to which this plan applies and the application has not been finally determined before that commencement, the application must be determined as if this plan had not commenced.*”

This particular development application was formally made on 21 October 2022 which predates the commencement of the CBLEP 2023 on 23 June 2023. Therefore, the application was assessed against the provisions contained in the Bankstown Local Environmental Plan 2015.

**Bankstown Local Environmental Plan 2015**

The relevant provisions and relevant development standards in the Bankstown Local Environmental Plan 2015 were taken into consideration, as detailed in Table 8 below:

**Table 8**

| **Bankstown Local Environmental Plan 2015** | | | | | |
| --- | --- | --- | --- | --- | --- |
| **Clause** | **Standard / Requirement** | **Comment** | **Compliance** | | |
| **Y** | **N** | **N/A** |
| **Part 1 Preliminary** | | | | | |
| 1.2 | Aims of Plan | | ✓ |  |  |
| **Part 2 Permitted or prohibited development** | | | | | |
| 2.3 | Zone objectives and Land Use Table | | ✓ |  |  |
| IN1 General Industrial Zone – Objectives of Zone | | | ✓ |  |  |
| 2.7 | Demolition requires development consent | | ✓ |  |  |
| **Part 4 Principal development standards** | | | | | |
| 4.4(2) | Floor space ratio  Max 1:1 | |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | **Unit** | **1** | **2** | **3** | **4** | **Total (m2)** | | **GF** | 7510 | 4155 | 5190 | 5395 | 22250 | | **Mezza.** | 400 | 400 | 400 | 400 | 1600 | | **Office** | 50 | 50 | 50 | 50 | 200 | | **GFA** | 7960 | 4605 | 5640 | 5845 | 24050 | | **Site** |  |  |  |  | 38983 | | **FSR** |  |  |  |  | 0.617:1 | | ✓ |  |  |
| 4.5 | Calculation of floor space ratio and site area | | ✓ |  |  |
| **Part 5 Miscellaneous provisions** | | | | | |
| 5.21 | Flood planning | | ✓ |  |  |
| **Part 6 Additional local provisions** | | | | | |
| 6.1 | Acid sulfate soils | | ✓ |  |  |
| 6.2 | Earthworks | | ✓ |  |  |
| 6.4 | Biodiversity | | ✓ |  |  |

As seen above, the proposed development complies with the relevant objectives, provisions and development standards set out in the Bankstown Local Environmental Plan 2015.

1. **Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are currently no draft environmental planning instruments to be considered.

1. **Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plans are relevant to this application:

* Bankstown Development Control Plan 2015 (BDCP 2015)

**Canterbury Bankstown Development Control Plan 2023**

The development application was formally made on 21 October 2022 which predates the commencement of the CBLEP 2023 and the CBDCP 2023 on 23 June 2023. Therefore, the application is assessed on the provisions contained in the Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015.

**Bankstown Development Control Plan 2015**

The relevant development controls and objectives in Part B3 – Industrial Precincts, Part B4 – Sustainable Development, Part B5 – Parking, Part B12 – Flood Risk Management and Part – 13 – Waste Management and Minimisation of the Bankstown Development Control Plan 2015 were taken into consideration, as detailed in Table 9 below:

**Table 9**

| **Bankstown Development Control Plan 2015 | Part B3 Industrial Precincts** | | | | | |
| --- | --- | --- | --- | --- | --- |
| **Clause** | **Standard / Requirement** | **Comment** | **Compliance** | | |
| **Y** | **N** | **N/A** |
| **SECTION 1–INTRODUCTION** | | | | | |
| Desired character objectives | | | | | |
| (a) | To have general industrial precincts in the City of Bankstown that accommodates a wide range of contemporary industries, warehouses and other compatible land uses within a generous landscape setting, and protects the industrial land for industrial uses. | | ✓ |  |  |
| **SECTION 2–BUILDING ENVELOPES** | | | | | |
| Objectives | | | | | |
| (a) | To have development that is compatible with the desired character and role of the particular industrial precinct. | | ✓ |  |  |
| (b) | To have transitional areas that are compatible with the prevailing suburban character and amenity of neighbouring residential environments. | | ✓ |  |  |
| Site coverage | | | | | |
| 2.1 | The sum of the site coverage on an allotment must not exceed:   1. 70% of the site area if a single business is to occupy the allotment; or 2. 60% of the site area if two or more businesses are to occupy the allotment. | |  |  | | --- | --- | | **Coverage** | 22328.6m2 | | **Site** | 38983m2 | | **Proposed** | 57.3% |   4 warehouses proposed i.e. two or more businesses | ✓ |  |  |
| Setbacks to the primary and secondary road frontages of allotments | | | | | |
| 2.2 | Where allotments adjoin a state or regional road (refer to Appendix 1), the minimum setback for development to the primary and secondary road frontages is 15 metres. | The subject site has frontages to Miller Road (classified as a regional road) and Orchard Road (local road).  The proposed setback to Miller Road exceeds 15m. | ✓ |  |  |
| 2.3 | Where allotments do not adjoin a state or regional road, the minimum setback for development:   1. to the primary road frontage is 10 metres; and 2. to the secondary road frontage is 3 metres. | The subject site has frontage to Orchard Road (classified as a local road).  21m setback to Orchard Road on the south-eastern corner of Office 1. The setback further increases to 43m as the front façade splays away from Orchard Road frontage.  Greater than 15m setback to Miller Road | ✓ |  |  |
| Setbacks to the side and rear boundaries of allotments | | | | | |
| 2.5 | Council may require minimum setbacks to the side and rear boundaries of an allotment:   1. to maintain reasonable solar access or visual privacy to neighbouring dwellings; or 2. to avoid an easement or the dripline of a tree on an allotment or adjoining allotment; or 3. to comply with any multi–level risk assessment undertaken for a development that ascertains the need for an appropriate setback or buffer zone between the development and any adjoining or neighbouring land within a residential zone. | The proposed development achieves a minimum 12.7m setback to the southern boundary.  The proposed development achieves a 6.508m setback to the western boundary and 9.1m setback to the northern boundary. It is noted that the side setbacks are to be utilised for fire truck access.  It is considered that the side setbacks are sufficient in avoiding any easement or the driplines of the trees on site and on adjoining properties.  It is noted that the proposed development would not overshadow or impact the visual privacy of the adjacent residential properties. | ✓ |  |  |
| 2.6 | The design of buildings must ensure that:   1. At least one living area of a dwelling on an adjoining allotment must receive a minimum 3 hours of sunlight between 8.00am and 4.00pm at the mid–winter solstice. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected living areas of the dwelling. 2. A minimum 50% of the required private open space for a dwelling that adjoins a development receives at least 3 hours of sunlight between 9.00am and 5.00pm at the equinox. Where this requirement cannot be met, the development must not result with additional overshadowing on the affected private open space. | The living areas and the private open spaces of the neighbouring dwellings across Orchard Road would not be overshadowed by the proposed development. | ✓ |  |  |
| Setbacks to riparian corridors | | | | | |
| 2.7 | Development must achieve a minimum setback of 15 metres from a riparian corridor (measured from the top of the watercourse banks), and must revegetate the riparian corridor to Council's satisfaction. | The proposed development is not within 15 metres of a riparian corridor. | ✓ |  |  |
| Development adjacent to residential zones | | | | | |
| 2.11 | In determining a development application that relates to land adjoining land in Zone R2, R3 or R4, Council must take into consideration the following matters:   1. whether any proposed building is compatible with the height, scale, siting and character of existing residential development within the adjoining residential zone; 2. whether any goods, plant, equipment and other material used in carrying out the proposed development will be stored or suitably screened from residential development; 3. whether the proposed development will maintain reasonable solar access to residential development between the hours of 8.00am and 4.00pm at the mid–winter solstice; 4. whether noise generation from fixed sources or motor vehicles associated with the proposed development will be effectively insulated or otherwise minimised; 5. whether the proposed development will otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting, fumes, gases, smoke, dust or odours, or the like; and 6. whether any windows or balconies facing residential areas will be treated to avoid overlooking of private yard space or windows in residences. | Although the subject site does not adjoin land zoned R2, R3 or R4, the following matters were still taken into consideration due to the proposed development being located directly opposite land zoned R2 and R4.   1. The proposed height, scale and siting of the development is compatible and is of an appropriate scale having regard to the existing residential developments occupying the eastern side of Orchard Road. 2. The orientation of the units and their loading areas and front entrances, in the majority of instances, do not present to the adjoining residential development. 3. The proposed development does not overshadow the residential properties on the eastern side of Orchard Road. 4. Heavy vehicle and large transportation vehicles are to access the site via Miller Road and not Orchard Road, as such minimising the acoustic impact on the residents of Orchard Road. 5. The use of the proposed development can be conditioned to minimise potential nuisance to residents, if required. 6. Windows to the office area of Unit 1 are partially glazed to a height of 2.1m above the FFL and do not overlook the windows and private open spaces of the residential properties on the eastern side of Orchard Road. | ✓ |  |  |
| **SECTION 3–BUILDING DESIGN** | | | | | |
| Objectives | | | | | |
| (a) | To have development that achieves good urban design in terms of building form, bulk, architectural treatment and visual amenity. | | ✓ |  |  |
| Facade design | | | | | |
| 3.1 | Development must articulate the facades to achieve a unique and contemporary architectural appearance that:   1. unites the facades with the whole building form; 2. composes the facades with an appropriate scale and proportion that responds to the use of the building and the desired contextual character; 3. combines high quality materials and finishes; 4. considers the architectural elements shown in the illustration to this clause; and 5. considers any other architectural elements to Council's satisfaction. | 1. The materials and colour schedule unites the front façade with the proposed industrial building 2. The front façade is appropriately scaled and designed with clear distinction between the office area and the industrial warehousing components. It is considered that the proposed façade responds to the use of the building and the immediate streetscape character of Orchard Road. 3. The materials and colour schedules are consistent with a desired design outcome and consists of high quality materials and finishes 4. The front façade includes architectural elements such as a clear glazed façade, a contemporary roof design, projecting wall elements, sun shading devices, and identification signage. 5. Staff outdoor areas are provided that offers opportunities for landscaping and planting. | ✓ |  |  |
| 3.2 | Development may have predominantly glazed facades provided it does not cause significant glare nuisance. | The glazed facades will not cause significant glare. | ✓ |  |  |
| Facade design (materials) | | | | | |
| 3.6 | Development must use:   1. quality materials such as brick, glass, and steel to construct the facades to a development (Council does not permit the use of standard concrete block); and 2. masonry materials to construct a factory unit within a building, and all internal dividing walls separating the factory units.   Despite this clause, Council may consider a small portion of the street facade to comprise metal sheet or other low maintenance material provided it complies with the Building Code of Australia. | 1. The materials used consists of concrete panels, metal wall cladding, metallic roof sheeting, cladding and green landscape walls. 2. Masonry materials such as concrete walls and slabs are used in the internal dividing walls of the units. | ✓ |  |  |
| Roof design | | | | | |
| 3.10 | Development must incorporate an innovative roof design that:   1. achieves a unique and contemporary architectural appearance; and 2. combines high quality materials and finishes. | 1. The flat metallic roof design is simple and contemporary in appearance. It does not incorporate convoluted architectural features such as parapets or blade wall features. 2. The metallic roof sheeting is high quality and consistent to the sheeting’s used in the adjoining industrial developments | ✓ |  |  |
| Safety and security | | | | | |
| 3.11 | The front door to buildings should face the street. | The front door of Unit 1 faces the street.  The front door of Units 2 – 4 face the proposed internal driveway. Although the front doors do not face the street, the front doors have been designed in response to the layout and orientation of the development. | ✓ |  |  |
| 3.12 | The administration offices or industrial retail outlets must locate at the front of buildings. | Main office areas located at the front entrance of the proposed units. | ✓ |  |  |
| 3.13 | Windows on the upper floors of a building must, where possible, overlook the street. | The windows on the upper floors of Unit 1 overlook the street where possible. | ✓ |  |  |
| 3.14 | Access to loading docks or other restricted areas in buildings must only be available to tenants via a large security door with an intercom, code, or lock system. | Access to loading docks is proposed via a driveway off Miller Road. | ✓ |  |  |
| 3.15 | Unless impractical, access to outdoor car parks must be closed to the public outside of business hours via a lockable gate. | The outdoor car parking areas are gated and not accessible to the public outside business hours. | ✓ |  |  |
| 3.16 | Development must provide lighting to the external entry paths, common lobbies, driveways and car parks using vandal resistant, high mounted light fixtures. | Suitable lighting and fixtures are provided accordingly. | ✓ |  |  |
| General | | | | | |
| 3.18 | Council must take into consideration the following matters for development in the industrial zones:   1. whether the proposed development will provide adequate off-street parking, relative to the demand for parking likely to be generated; 2. whether the site of the proposed development will be suitably landscaped, particularly between any buildings and the street alignment; 3. whether the proposed development will contribute to the maintenance or improvement of the character and appearance of the locality; 4. whether access to the proposed development will be available by means other than a residential street but, if no other means of practical access is available, the consent authority must have regard to a written statement that: 5. illustrates that no alternative access is available otherwise than by means of a residential street; and 6. demonstrates that consideration has been given to the effect of traffic generated from the site and the likely impact on surrounding residential areas; and 7. identifies appropriate traffic management schemes which would mitigate potential impacts of the traffic generated from the development on any residential environment; 8. whether goods, plant, equipment and other material used in carrying out the proposed development will be suitably stored or screened; 9. whether the proposed development will detract from the amenity of any residential area in the vicinity; and 10. whether the proposed development adopts energy efficiency and resource conservation measures related to its design, construction and operation. | 1. 81 car spaces required as per warehouse or distribution centres parking rate in Part B5 of BDCP 2015. 82 car parking spaces provided. 2. Suitable on-site landscaping provided. The large tree, which is in the vicinity of the Orchard Road frontage, has been retained. 3. The proposed development will improve the character and appearance of the locality in particular with the landscaping and tree plantings proposed. 4. Large trucks and vehicles are to be access the site via Miller Road, with small vehicles i.e. cars, to access the site from Orchard Road. 5. Suitable screening provided via orientation of units, loading bays and separate access for heavy vehicles via Miller Road. 6. The proposed development will not detract from the amenity of the neighbouring residential areas. 7. The proposed development is considered to be energy efficient. | ✓ |  |  |
| **SECTION 4–ENVIRONMENTAL MANAGEMENT** | | | | | |
| Objectives | | | | | |
| (a) | To have development that minimises pollution and environmental risk, and enhance ecological values. | | ✓ |  |  |
| (b) | To have development that provides adequate amenity to people who work in and visit the local area. | | ✓ |  |  |
| Acoustic privacy | | | | | |
| 4.1 | Development must:   1. consider the Industrial Noise Policy and the acoustic amenity of adjoining residential zoned land; and 2. may require adequate soundproofing to any machinery or activity that is considered to create a noise nuisance. | The acoustic report submitted with the application has been reviewed by Council’s Environmental Health Officer and they have advised that the proposed development is acceptable, subject to recommended conditions of consent. | ✓ |  |  |
| Pollution control | | | | | |
| 4.2 | Development must adequately control any fumes, odour emissions, and potential water pollutants in accordance with the requirements of the relevant public authority. | The submitted Geotechnical Report, Air Quality Impact Assessment, and Waste Management Plan have been reviewed by Council’s Environmental Health Officer and Waste Management Officer and been found to be acceptable, subject to recommended conditions of consent. | ✓ |  |  |
| Open space | | | | | |
| 4.3 | Development must provide primary and secondary landscaped area with minimum 10 metres width for sites greater than 4,000m2, for lots adjoining a classified road. | Miller Road is classified as a Regional Road.  Site > 4000m2  Landscape width requirement = 10m.  No landscape requirement required for the frontage to Miller Road as access to the site is via an access handle.  Proposed 10m landscape width to Orchard Road. | ✓ |  |  |
| 4.4 | Where development provides a landscaped area, the development should also provide employee amenities that utilises or has access to the landscaped area. The landscaped area should include a combination of grass, plantings, pavement, shade, and seating to allow employees to engage in a pleasant working environment. | The proposed development as amended provides adequate landscaping and employee seating areas for each industrial unit. | ✓ |  |  |
| 4.5 | Development must:   1. retain and protect any existing trees identified by Council on an allotment and adjoining allotments; and 2. must not change the natural ground level within 3 metres of the base of the trunk or within the dripline, whichever is the greatest. | The proposed tree removal, tree retention and tree plantings were reviewed by Council’s Tree Management Officer and has advised that the proposed development is acceptable, subject to recommended conditions of consent. | ✓ |  |  |
| 4.6 | Development with a primary road frontage of 5 metres or more must provide at least 1 street tree per 5 metres of primary road frontage. Council may vary this requirement if a street tree already exists in good condition or site constraints limit their inclusion. | 58m / 5m = 11.4 trees required.  15 trees are proposed to be planted along Orchard Road, as shown on the landscape plans. | ✓ |  |  |
| 4.7 | Development must plant trees in the landscaped area at a minimum rate of 1 canopy tree per 30m2 of the landscaped area. The canopy tree must be capable of achieving a mature height greater than 5 metres. | Landscape area = 1570m2 Requirement = 52 trees  Proposed = 63 trees | ✓ |  |  |
| 4.8 | Where development proposes an outdoor car park with 20 or more car parking spaces, the car park design must include at least 1 tree per 5 car parking spaces to the following specifications:   1. a tree must be a single trunk species to allow a minimum visibility clearance of 1.5 metres measured above natural ground level; and 2. a tree must be planted in an island bed that is a minimum 2 metres in width and 4 metres in length. | The amended landscape plan includes planting of trees for every 5 parking spaces | ✓ |  |  |
| **SECTION 5–ANCILLARY DEVELOPMENT** | | | | | |
| Objectives | | | | | |
| (a) | To have ancillary development that unifies the development appearance, and achieves good urban design in terms of architectural treatment and visual amenity. | | ✓ |  |  |
| Front fences | | | | | |
| 5.1 | The maximum fence height for front fences is 1.8 metres. | Proposed 2.1m high black PVC coated chain wire mesh fence with 300mm barbed wire fence immediately atop for side boundaries.  Condition front fence to achieve a maximum 1.8m height – considered to be compliant. | ✓  TBC |  |  |
| 5.2 | The external appearance of front fences along the front boundary of allotments must ensure:   1. the section of the front fence that comprises solid construction (not including pillars) does not exceed a fence height of 1 metre above ground level (existing); and 2. the remaining height of the front fence comprises open style construction such as spaced timber pickets or wrought iron that enhance and unify the building design.   Despite this clause, the solid construction of a fence behind the front building line of dwelling houses and dual occupancies on corner allotments may achieve a fence height up to 1.8 metres. | Condition front fence to achieve a maximum 1.8m height – considered to be compliant. | ✓  TBC |  |  |
| 5.3 | Council does not allow the following types of front fences:   1. chain wire, metal sheeting, brushwood, and electric fences; and 2. noise attenuation walls. | The front fence is not made of chain wire, metal sheeting and the like. | ✓ |  |  |
| Business and building identification signs | | | | | |
| 5.4 | Development is limited to one pylon sign for each allotment boundary that adjoins a classified road, and must ensure:   1. the sign is predominantly rectangular in shape with a vertical proportion; 2. the envelope of the sign is 4 metres or 9 metres in height (to encourage two consistent heights rather than a variety of heights) and a maximum 2 metres in width; and 3. the sign only identifies the businesses on the allotment and the street number to assist customers and visitors. | Two pylon signs proposed   1. The proposed pylon signs are rectangular in shape with vertical proportions. 2. 2.6m wide and 9m high 3. The signage identifies the site as No. 149 Orchard Road. Further identification signs within the site will direct customers and visitors to the businesses on the allotment.   The pylon sign along Orchard Road is conditioned to achieve a maximum dimension of 2m x 4m. The second pylon sign along Miller Road fails the maximum width control. However, it is considered that the proposed width is acceptable given the location and setback of the pylon sign.  It is recommended that the width non-compliance for pylon sign along Miller Road be supported. | ✓  TBC |  |  |
| 5.5 | In addition to clause 5.4, Council may allow development to have other business or building identification signs provided:   1. the total permissible area of all signs must not exceed 1.1 square metres per 3 metres of street frontage; and 2. signs will not be permitted nearer to the street alignment than one third of the prescribed building line, and where permitted between the building line and the street must not exceed two thirds of what is normally permitted on or behind the building line; and 3. signs are suitably integrated with the architectural style of the building. | 1. 58m / 3m = 19.3 x 1.1m2 = 21.26m2 maximum permissible area.  |  |  | | --- | --- | | Pylon 1 | 23.4m2 | | Pylon 2 | 23.4m2 | | Blade 1 | 1.9m2 | | Blade 2 | 13.5m2 | | Sign A x 4 | 70m2 | | Sign B x 4 | 12.5m2 | | **Total** | **144.7m2** |   The proposed sign areas exceed the maximum allowable signage area permissible for the site. It is considered that the proposed total sign area is acceptable in this instance given that the subject site is large and an irregular-shaped allotment. It is noted that the maximum signage area calculation is limited to the length of the primary frontage. Nonetheless, the proposed signs are adequately spaced and provides identification for the proposed 4 industrial units. The signage is not congregated to a portion of the site and do not dominate the streetscape of Orchard Road. It is considered that the proposed signage area is worthy of support despite the numerical non-compliance.   1. Signs are suitably located along the frontages. 2. All signs have been designed to be integrated with the colours of the proposed development | ✓ |  |  |
| 5.6 | Council does not allow the following signs:   1. flashing signs, flashing lights, signs which incorporate devices which change colour, a sign where movement can be recognised by a passing motorist; 2. signs extending over street boundaries, other than those permitted in conjunction with shops, or the like, where such buildings are erected on the street alignment; 3. any sign that would adversely affect existing traffic lights; 4. any sign that is not permanently fixed to the site; 5. any sign made of canvas, calico or the like. Council may grant a limited approval for a maximum period of 1 month, provided the sign complies with relevant legislation; 6. any under awning sign in excess of 2.5 metres x 0.4 metre; and 7. signs at a lower level than 2.6 metres over the footway. | The proposed signs do not include any of these designs. | ✓ |  |  |
| 5.7 | Business or building identification signs that are painted or attached to a building must not screen windows and other significant architectural features of the building. | The proposed signs do not screen windows or significant features. | ✓ |  |  |

**Table 10**

| **Bankstown Development Control Plan 2015 | Part B4 – Sustainable Development** | | | |
| --- | --- | --- | --- |
|  | **Compliance** | | |
| **Y** | **N** | **N/A** |
| Part B4 of the DCP requires the preparation of a ‘site water management plan’ and ‘energy performance report’ for new developments with a floor area that exceeds 5,000m2.  It is considered that the proposed development is capable of achieving compliance and that the proposed design would not require substantial amendments to comply with Part B4 of the DCP. Conditions of consent, prior to a construction certificate, will be placed on the determination notice requiring a Site water management plan and Energy performance report, prepared by a suitably qualified energy consultant, to be submitted. | ✓ |  |  |

**Table 11**

| **Bankstown Development Control Plan 2015 | Part B5 – Parking** | | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Clause** | **Standard / Requirement** | | | | **Comment** | **Compliance** | | |
| **Y** | **N** | **N/A** |
| **SECTION 2 – OFF-STREET CAR PARKING** | | | | | | | | |
| 2.1 | Development must calculate the amount of parking required using the schedule of off–street parking requirements. | | | | 24050m2 / 300m2 = 80.16 i.e. 81 off-street parking spaces required.  82 car parking spaces provided. | ✓ |  |  |
| **SCHEDULE: OFF–STREET PARKING REQUIREMENTS** | | | | | | | | |
| Land Use | | | Off-Street Parking Requirements | | | | | |
| Warehouse or distribution centres | | | 1 car space per 300m2 of gross floor area. | | | | | |
| **SECTION 3 – OFF STREET PARKING DESIGN AND LAYOUTS** | | | | | | | | |
| 3.3 | The following minimum dimensions are generally required for each parking space. | | | | 2.5m x 5.5m parking dimensions  3.2m x 6m disability parking dimensions – compliant with Australian Standards | ✓ |  |  |
| Parking Type | Length | | Width |
| Open | 5.4 | | 2.5 |

**Table 12**

| **Bankstown Development Control Plan 2015 | Part B12 – Flood Risk Management** | | | |
| --- | --- | --- | --- |
|  | **Compliance** | | |
| **Y** | **N** | **N/A** |
| Part B12 of the DCP provides guidance for the development of flood liable land. The subject site is identified as being affected by both medium and high-risk flooding. The development must ensure that the objectives and controls contained within Part B12 are met.  The applicant has submitted a Flood Impact Assessment Report, Stormwater Management Plan, Stormwater Systems Report, Civil Engineering Report and Drawings, that have been reviewed by Council’s Development Engineer and Asset Planner. The subject site is affected by 100-year ARI Flood and PMF Extent Maps from Villawood Catchment Study. It is required that all habitable floor areas be at least 500mm above the 100-year ARI flood level at RL 24.5 AHD. The proposed FFL is 24.5 and therefore satisfies the flood free planning level.  Council’s Engineers and Development Asset Planning are satisfied that the documentation submitted, and the development proposed responds appropriately to the site. The proposed development is considered to be consistent with the provisions and controls of Part B12 of the DCP, subject to conditions of consent. | ✓ |  |  |

**Table 13**

| **Bankstown Development Control Plan 2015 | Part B13 – Waste Management and Minimisation** | | | | | |
| --- | --- | --- | --- | --- | --- |
| **Clause** | **Standard / Requirement** | **Comment** | **Compliance** | | |
| **Y** | **N** | **N/A** |
| 4.3 | Where development involves multiple tenancies, individual bin storage for each tenancy is to be provided. | The plans identify dedicated Waste Management Areas for each of the warehouses. Council’s Waste Officers have reviewed the proposal and are satisfied with the documentation submitted. | ✓ |  |  |
| 4.6 | Bin storage areas are to be integrated with the overall design and functionality of the development and are to locate within the building envelope to enable these areas to be screened from view from the public domain. | The bin storage areas are located within the immediate vicinity of each of the units and are also screened from public view. | ✓ |  |  |

As seen in the tables above, the proposed development generally complies with the objectives and development controls of Bankstown Development Control Plan 2015, except for Clause 5.4, Part B3 of the BDCP 2015.

Maximum Dimensions and Number of Pylon Signs

The proposal includes two pylon signs with dimensions of 2.6m x 9m, one along the Miller Road frontage and the second along the Orchard Road frontage. It is noted that Miller Road is classified as a regional road and Orchard Road is a local road. In this regard, the proposed development fails to comply with Clause 5.4, Part B3 of the BDCP 2015, as the proposed signs exceed the maximum width requirement and the maximum number of pylon signs permitted on the site.

It is considered that the second pylon sign along Orchard Road is large and bulky, and impacts the residential interface of Orchard Road. It is conditioned that the sign be reduced to a maximum height of 4m and a maximum width of 2m. Although the proposed development exceeds the pylon signage limit for the site, a smaller pylon sign along Orchard Road would contribute to the clear identification of the site. In addition, the smaller pylon sign would not create undue impacts to the streetscape of Orchard Road, nor would it result in loss of views. As such, it is considered that a second pylon sign is worthy of support in this instance, subject to the dimensions being a maximum of 2m x 4m.

Although the proposed pylon sign along Miller Road frontage exceeds the maximum width requirement, it is considered acceptable in this instance as the pylon sign does not impact the manoeuvrability of large trucks and vehicles entering and exiting the site, nor does it impact the streetscape of Miller Road. Rather, the wide signage would allow for clear identification of the site given that the frontage of Miller Roadis limited to predominantly the driveway.

In addition, it is considered acceptable that the pylon sign along Miller Road to be wider than the maximum width control as the signage is setback 13.3m from Miller Road frontage. The wider design would contribute to the identification of subject site.

**Canterbury-Bankstown Local Infrastructure Contributions Plan 2022**

This Contributions Plan has been considered and is included in the recommended conditions of consent at Attachment A.

1. **Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

1. **Section 4.15(1)(a)(iv) - Provisions of Regulations**

The proposed development is consistent with the relevant provisions contained in the Environmental Planning and Assessment Regulation 2021.

* 1. **Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of the proposed development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls, as well as the Key Issues identified in the assessment of the application.

* Context and setting – The proposal is considered to be generally consistent with the context of the site and immediate surrounding industrial setting. In addition, the proposed development has been designed to respect the residential streetscape of Orchard Road, in particular the residential development to the east of the site. It is noted that the proposed development has been designed with sufficient on-site landscaping which includes tree retention and tree replacement.
* Access and traffic – The proposed access from Orchard Road is reserved for small vehicles, with all large vehicles to access the site via Miller Road. It is considered that the residential amenity of Orchard Road would not be adversely impacted, and would be protected from any traffic impacts of large vehicles accessing the site.
* Utilities – The pump house and sprinkler tank have been relocated and integrated to the façade / building wall of the proposed development. It is considered that the potential streetscape impact to Orchard Road has been reduced.
* Contamination – The submitted Detailed Site Investigation and Remediation Action Plan has been assessed by Council’s Environmental Health Officer who has provided conditions of consent. It is considered that the subject site is suitable for the proposed industrial redevelopment subject to recommendations set out in the Detailed Site Investigation report.
* Stormwater Drainage – Council’s Engineers are satisfied that the documentation submitted, and the development proposed, responds appropriately to the site and the flooding considerations. Conditions of consent have been recommended to ensure the structural adequacy of the build throughout the construction phase as well as the long term operations on site can be facilitated and maintained by the land owner.
* Site design – The proposed development has been designed with compliant setback requirements and does not exceed the maximum allowable FSR or site coverage controls. Although there are no applicable building height standards, the proposed heights of the development are generally consistent with the existing industrial developments immediately adjoining the site.

Accordingly, it is considered that the proposal would not result in any significant adverse impacts to the immediate locality, in particular the residential zones opposite along Orchard Road. In addition, the proposal has demonstrated that the subject site is suitable for redevelopment. It is considered that the proposed development would not create undue social and economic impacts in the locality, rather it would promote further employment.

* 1. **Section 4.15(1)(c) - Suitability of the site**

The applicant has demonstrated that there is sufficient manoeuvrability on-site for large vehicles, and that all large vehicles can enter and exit the site in a forward direction.

Additionally, the submitted Detailed Site Investigation and Remediation Action Plan demonstrates that the subject site is suitable for redevelopment, subject to key recommendations of the Detailed Site Investigation.

Furthermore, the proposed development is permitted in the zone. As such, based on the above assessment, the site is suitable for the proposed development.

* 1. **Section 4.15(1)(d) - Public Submissions**

The proposal was notified in accordance with Council’s Community Participation Plan from 2 November 2022 until 22 November 2022. No submissions, in relation to the proposal, were received.

* 1. **Section 4.15(1)(e) - Public interest**

For the reasons outlined within this report, approval of the proposed development would be in the public interest.

1. **REFERRALS AND SUBMISSIONS** 
   1. **Agency Referrals and Concurrence**

The development application has been referred to the following agency for comment/concurrence as required by the EP&A Act.

**Table 14**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Agency** | **Concurrence/**  **referral trigger** | **Comments**  **(Issue, resolution, conditions)** | **Resolved** | |
| **Y** | **N** |
| Referral/Consultation Agencies | | | | |
| Transport for NSW | Division 17 Roads and traffic   * 2.122 Traffic-generating development   Schedule 3 Traffic-generating development to be referred to TfNSW—Chapter 2 | The proposal has been assessed by Transport for NSW and found to be acceptable, subject to conditions. | ✓ |  |

* 1. **Council Officer Referrals**

The development application has been referred to various Council officers for technical review as outlined **Table 15.**

**Table 15**

|  |  |  |  |
| --- | --- | --- | --- |
| **Agency** | **Comments** | **Resolved** | |
| **Y** | **N** |
| Engineering | Council’s Engineers and Asset Planner has reviewed the submitted Flood Impact Assessment Report, Stormwater Management Plan, Stormwater Systems Report, Civil Engineering Report and Drawings, and have raised no objections, subject to conditions of consent. | ✓ |  |
| Traffic | Council’s Traffic Engineers reviewed the proposal and Traffic and Transport Impact Assessment report, and have raised no objections, subject to conditions of consent. | ✓ |  |
| Building Surveyor | Council’s Building Surveyor has reviewed the proposal and the BCA and DDA Access report, and have raised no objections, subject to conditions of consent. | ✓ |  |
| Environmental Health | Council’s Environmental Health Officer has reviewed the submitted Geotechnical Report, Air Quality Impact Assessment, Noise Impact Assessment, Remediation Action Plan, Site Audit Report and revised Detailed Site Investigations Report, and have raised no objections, subject to conditions of consent. | ✓ |  |
| Waste Management | Council’s Waste Management Officer reviewed the proposal and the submitted Waste Management Plan, and have raised no objections, subject to conditions of consent. | ✓ |  |
| Tree Management | Council’s Tree Management Officer has reviewed the proposal and submitted Landscape Plan and have raised no objections, subject to conditions of consent. | ✓ |  |
| Community Safety | Council’s Community Safety Officer has reviewed the proposal and have raised no objections, subject to conditions of consent. | ✓ |  |
| Fire Safety | Council’s Fire Safety Officer has reviewed the proposal and have raised no objections, subject to conditions of consent. | ✓ |  |

* 1. **Community Consultation**

The proposal was notified in accordance with Council’s Community Participation Plan from 2 November 2022 until 22 November 2022. The notification included the following:

* Notification letters sent to adjoining and adjacent properties;
* Notification on the Council’s website;
* Advertisement/notice in the local newspaper.

Council received no submissions in relation to the proposed development.

1. **CONCLUSION**

DA-741/2022 has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls and the key issues identified in this report, it is considered that the application can be supported.

The amended plans and additional documentation are sufficient and demonstrate compliance with several key issues including landscaping, tree planting, setbacks, access and manoeuvrability, contamination, and stormwater management.

It is considered that the key issues as outlined in the report above have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

1. **RECOMMENDATION**

That Development Application DA-741/2022 for the demolition of existing structures, removal of site vegetation and retention of 6 trees, construction of 4 attached warehouse and distribution buildings for 24 hours, 7 days a week operation, ancillary office spaces, awnings, associated site preparation works, vehicular and pedestrian access, car parking and landscaping, and 2 pylon signs and business identification signs at No. 149 Orchard Road, Chester Hill be approved pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

* Attachment A: Draft Conditions of consent
* Attachment B: Amended Architectural Plans Revision U