

COUNCIL ASSESSMENT REPORT

SYDNEY SOUTH PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSSH-149 PAN-356024 DA-938/2023
PROPOSAL	Tree removal, remediation works and the construction and use of warehouse or distribution centre (comprising of three warehouse buildings containing six tenancies) with ancillary offices and a cafe. Proposed works include civil works, car parking, landscaping and onsite utilities.
ADDRESS	Lot 1 DP 746322, 9 Birmingham Avenue, Villawood NSW 2163
APPLICANT	The Trustee for 9 Birmingham Avenue Property Limited
OWNER	ESR Investment Management 2 (Australia) Pty Ltd
DA LODGEMENT DATE	7 September 2023 (submitted 31 July 2023)
APPLICATION TYPE	DA
REGIONALLY SIGNIFICANT CRITERIA	Schedule 6 – Regionally significant development of State Environmental Planning Policy (Planning Systems) 2021 as the proposal is for a general development with an estimated development cost of more than \$30 million.
EDC	\$65,200,000 (excluding GST)
SECTION 4.6 REQUESTS	None
KEY SEPP/LEP	<ul style="list-style-type: none"> 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 (Sustainable Buildings) 2022 State Environmental Planning Policy (Transport and Infrastructure) 2021 Canterbury Bankstown Local Environmental Plan 2023
TOTAL & UNIQUE SUBMISSIONS ISSUES KEY IN SUBMISSIONS	One (1) submission raising concern about potential approval of a café in close proximity to an existing café.
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> Civil Engineering Plans (Revision D) Civil Engineering Report (Revision C) Biodiversity Development Assessment Report (Version 1.1) Arboricultural Impact Assessment (Revision 3.1) Traffic and Parking Assessment (Issue H) Geotechnical Investigation (Revision 0) Supplementary Site (Contamination) Investigation (Rev. 0)

	<ul style="list-style-type: none"> • Remediation Action Plan Volumes 1 – 3 (Revision 0) • Contamination Investigation (Revision 0) • Remediation Action Plan (Volumes 1 – 3) • Interim Site Audit Advice • Visual Impact Assessment (Revision B) • Access Assessment (Revision 1.1) • BCA Assessment (Revision 1.1) • Waste Management Plan (Revision 5) • Air Quality Assessment (Revision 1) • Noise and Vibration Impact Assessment (Revision 1) • Historical Heritage Assessment (Revision 2) • Aboriginal Cultural Heritage Assessment (Revision 2) • Fire Safety and Engineering Fire Protection Review
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	None
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	14 October 2024
PLAN VERSION	11/06/2024 Issue P17
PREPARED BY	Canterbury Bankstown Council
DATE OF REPORT	14 October 2024

EXECUTIVE SUMMARY

This matter is reported to the Sydney South Planning Panel in accordance with Section 2.19 *Declaration of regionally significant development: section 4.5(b)* and Schedule 6 *Regionally significant development* of State Environmental Planning Policy (Planning Systems) 2021 as the proposed development exceeds the development cost of \$30 million for a general development.

Development application number DA-938/2023 seeks consent for tree removal, remediation works, earthworks and the construction of warehouse or distribution centres (comprising of three (3) warehouse buildings containing six (6) tenancies, each with ancillary office space) as well as a stand-alone commercial structure for future use as a café. Separate complying development consent has been approved for the demolition of structures on site. Use of all tenancies as warehouse or distribution centres, excluding the café structure is proposed through this application. The proposal also includes civil works, landscaping and on-site utilities. The proposal includes 179 at-grade car parking spaces. The land uses of warehouse or distribution centre as well as a café are both permissible with consent within the subject IN1 General Industrial land use zone in Canterbury Bankstown Local Environmental Plan 2023.

The application has been assessed against the relevant provisions within:

- *Water Management Act 2000*,
- *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 (Sustainable Buildings) 2022,
- State Environmental Planning Policy (Transport and Infrastructure) 2021,
- Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP 2023), and
- Canterbury Bankstown Development Control Plan 2023.

The application was advertised and neighbour-notified for a period of twenty-eight (28) days from 20 September 2023 to 18 October 2023. One (1) submission was made during the assessment of this application which raised concerns about potential competitive commercial impacts on an existing café in the area stemming from approval of a café within this development.

The application was referred to Ausgrid under Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021. Ausgrid provided general terms of approval for any potential approvals on site. The application was referred to TfNSW under Chapter 2 of State Environmental Planning Policy (Transport and Infrastructure) 2021 as a traffic-generating development with TfNSW providing a response that the development is unlikely to have a significant impact on the classified roadway network. The application was referred to WaterNSW as integrated development in accordance with section 4.46 of the EP&A Act 1979 under the *Water Management Act 2000*, with Water NSW providing general terms of approval for any potential consent on site. The application was referred to Department of Planning and Environment-Water as integrated development in accordance with section 4.46 of the EP&A Act 1979 under the *Water Management Act 2000*, with the Department responding to the referral noting that the activities proposed are considered exempt and no controlled activity approval is required.

The application generally complies with the applicable development standards and development controls, and where variations are proposed, including the location of a substation and the tree replacement planting ratio, the proposal has demonstrated an appropriate or better planning outcome can be achieved notwithstanding the non-compliances. Each non-compliance is detailed within this report and is considered worthy of support as the application demonstrates an appropriate planning outcome for the site and the wider locality.

1. THE SITE AND LOCALITY

1.1 The Site

The site is legally identified as Lot 1 in Deposited Plan 746322, and has an address of 9 Birmingham Avenue, Villawood and is located approximately 20km west of Sydney CBD in an established industrial area. The site comprises a single, irregularly shaped allotment with a street frontage along its western boundary to Birmingham Avenue. Birmingham Avenue is a cul-de-sac accessed off Christina Road, which provides access to Woodville Road, Miller Road and the wider area. The site has an area of 74,520m² (7.452 hectares) and the site is 400 metres in depth and 215 metres in width. The site is shown below highlighted in blue:

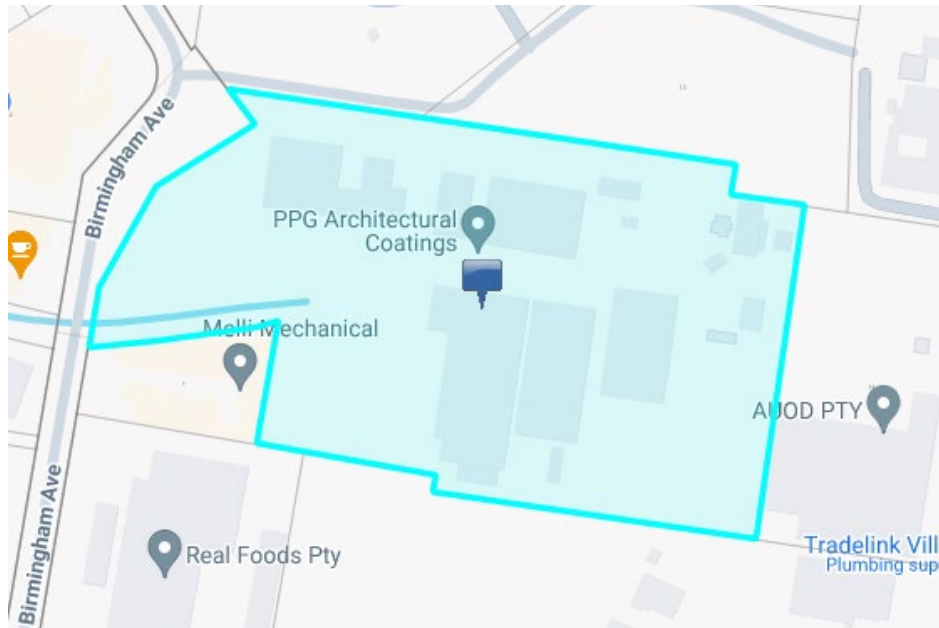


Figure 1: Site Map (Source: Weave)

The site's wider context within its locality can be seen below with industrial uses predominating the area with residential land uses existing further to the north:



Figure 2: Location Map (Source: NearMaps)

The site's topography is consistent with the wider area and slopes downhill from the east to the west falling from RL 28.48 (in the south-eastern corner) to RL 19.58 (in the south-western corner and RL 27.35 (in the north-eastern corner) to RL 21.37 (in the north-western corner), based on survey prepared by Landair Surveys dated 6 June 2023. The wider area follows a similar topography, sloping towards man-made water courses southwest of the site which drain into Prospect Creek and the Georges River. The path of the water courses is shown below, with the site pinpointed in blue on the righthand side of the image:

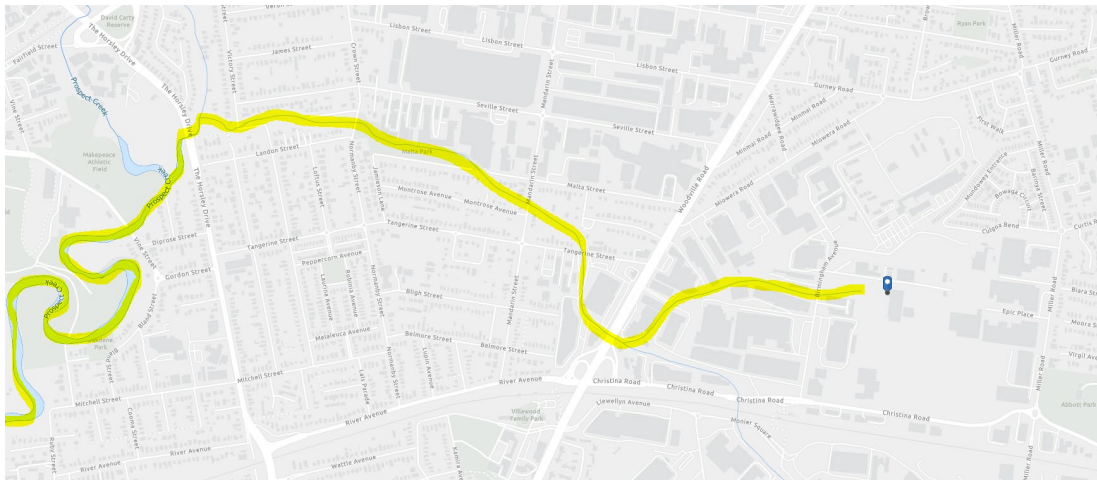


Figure 3: Watercourse Map (Source: Water Management (General) Regulation 2018 Hydroline Spatial Data

The site is subject to a stormwater affectation of medium and high-risk from the Villawood Catchment, being impacted by overland flow from stormwater runoff originating from upstream properties within the catchment. Water generally flows from the north and east to the southwest corner of the site. The extent of the flooding impacts on site can be seen below with overland flow originating from adjoining sites and flowing into a channelised waterway downstream:

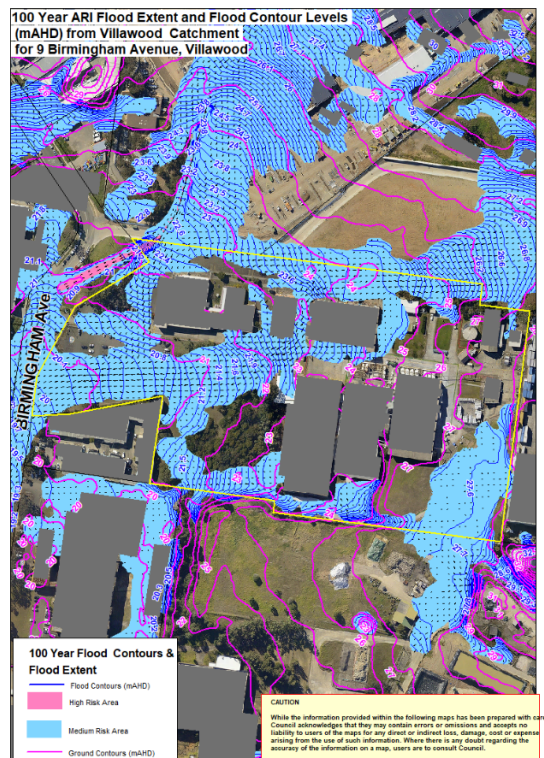


Figure 4: Overland flow path (Source: Weave)

Section 6.4 of the LEP pertains to terrestrial biodiversity, with the site being nominated on the Biodiversity Map as containing terrestrial biodiversity. The subject vegetation is specifically comprised of the following elements:

- Cooks River/Castlereagh Ironbark Forest TEC (PCT 3448)
- Cumberland Plain Woodland TEC (PCT 3629)
- Castlereagh Scribbly Gum Woodland TEC (PCT 3629)
- *Acacia pubescens*

Adjoining properties are also nominated as containing terrestrial biodiversity, meaning that the site forms a link in a chain of sites which contain significant vegetation. An excerpt from the Biodiversity Map in the LEP is shown below with the site pinpointed with a blue indicator and the chain visible as a north-south corridor:

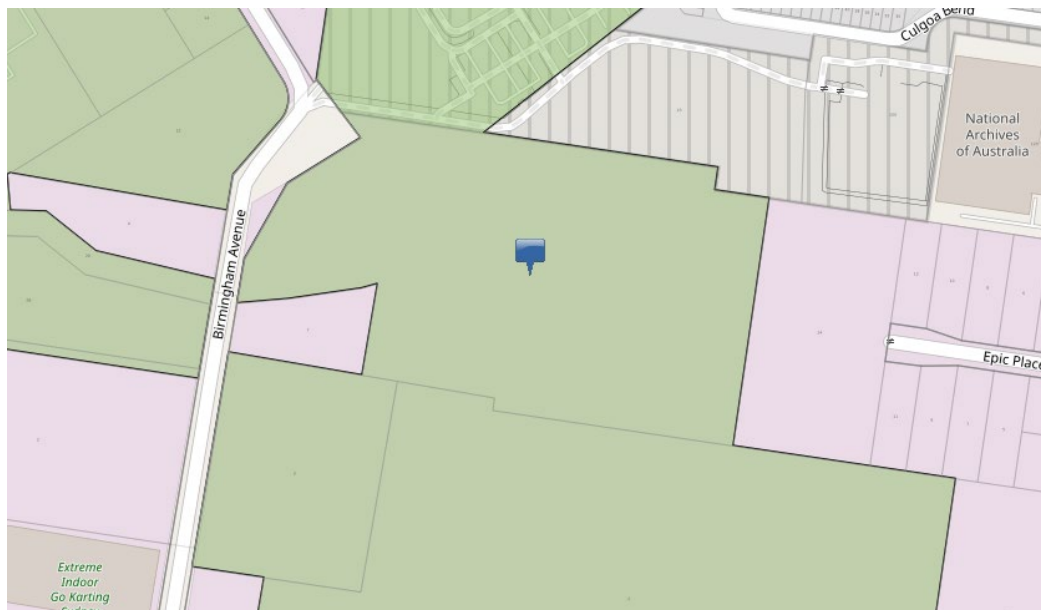


Figure 5: Biodiversity Map Excerpt (Source: eSpatial Viewer)

Vegetation is concentrated near the southern central portion of the site as well as along the street boundary and northern boundary. A number of trees on adjoining properties partially overhang the site. The application is accompanied by an Arboricultural Report as well as a Biodiversity Development Assessment Report (BDAR) which make recommendations regarding vegetation removal and replacement which are shown on the accompanying landscape plans. Vegetation removal is assessed in further detail within this report.

The site is burdened by a number of easements (stormwater and electricity). Specifically, the site contains a 9.144m wide easement for a culvert, a 2m wide private drainage easement and a 2.5m wide and 3m wide easement for stormwater infrastructure. These easements traverse the site as shown below:

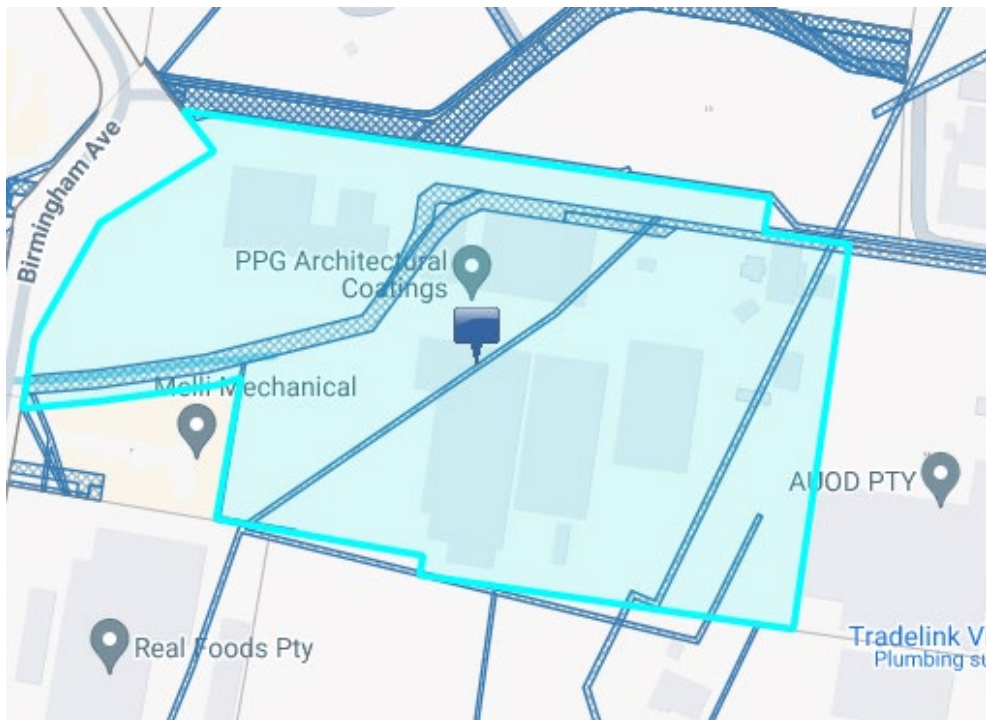


Figure 6: Easements on site (Source: Weave)

Ausgrid has provided general terms of approval for work in and around its easements, while stormwater easements on site are proposed to be decommissioned or relocated to allow for the redevelopment of the site with conditions of consent being provided by Council's Development Engineer.

The site contains a variety of structures and building elements, including several warehouse-type buildings, sheds, water tanks, an electrical transformer, a substation and parking facilities. All structures on site are approved to be demolished under Complying Development Application Number 1127/2024.

Section 5.10 of the LEP pertains to heritage conservation and while the site does not contain a heritage item, its northern boundary adjoins heritage item no. 140 (Villawood Immigration Detention Centre). The application is accompanied by an Aboriginal Cultural Heritage Assessment and an Historical Heritage Assessment which both recommend continued monitoring of the site during excavation for potential finds should the application be approved.

Due to the site's history of and current use for industrial activities a contamination report accompanies the application. The report determined that there is a potential for asbestos, impacts from volatile contaminants (concentrated on the eastern portion of the site) and potential for localised chemical contamination on site. It also found that contamination in the shallow groundwater is generally localised and that broadscale significant groundwater contamination is not considered likely. The recommendation of the report was for the preparation of a Remediation Action Plan (RAP) which also accompanies this application. The RAP has determined that the site can be rendered suitable for an industrial land use. The RAP has been reviewed by an independent site auditor as well as Council's Environmental Health Officer who found it suitable subject to conditions of consent.

1.2 The Locality

The surrounding sites are predominantly part of the established industrial area with industrial and warehousing facilities to the west, south and east. To the north sits the Villawood Immigration Detention Centre. To the north sits 13 Birmingham Avenue, zoned B5 Business

Development and which benefits from a consent from DA-717/2016 which authorised for the construction of 16 bulky goods warehouse units, associated offices, café and parking facilities. A construction certificate (CC-343/2023) has been approved for the footings and shoring of this development so while the site is currently vacant, preliminary construction works are expected imminently. The nearest residential receptors are located 115 metres to the north, 320 metres to the east and 340 metres to the northwest. Leightonfield Railway Station which is serviced by the Sydney Trains T3 Train Line is located 360 metres to the south of the site. The site surrounds are shown below:



Figure 7: Location Map (Source: Weave)

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The site is zoned IN1 General Industrial under the LEP. Warehouse or distribution centres are a permissible form of land use within the subject zone. The ancillary café proposed within the development is also a permitted land use with consent within the zone.

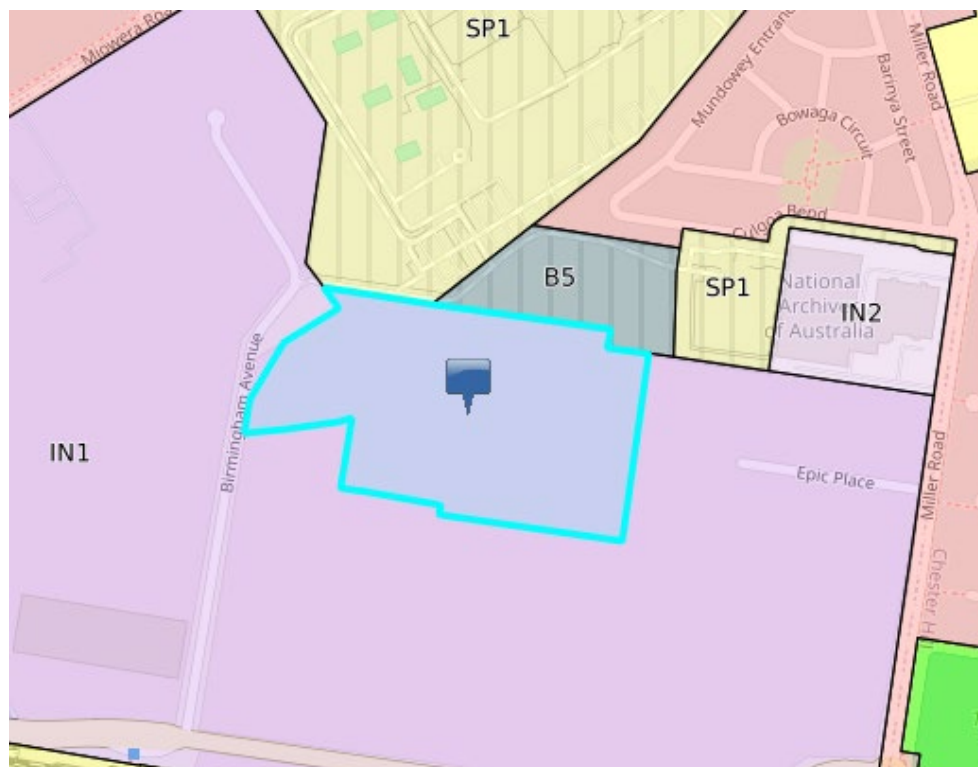


Figure 8: Land Zoning Map Excerpt (Source: Weave)

The application proposes the following elements:

- Site remediation works,
- Tree management, including the removal of 309 trees and lopping or pruning of others. 70 trees subject to removal, lopping or pruning are located on adjoining sites to the east and north which partially overhang the subject site,
- Construction of a warehouse or distribution centre with three warehouse units (each with 2 tenancies and ancillary offices),
- Construction of an ancillary commercial structure for future use as a café,
- Vehicular access and facilities including:
 - New vehicle footpath crossing (VFC) to Birmingham Avenue,
 - Internal driveway through middle of site ending at a cul-de-sac,
 - Car parking and loading facilities consisting of:
 - 179 at-grade car parking spaces (including 7 accessible spaces),
 - 6 loading bays and manoeuvring areas for large vehicles,
 - 42 bicycle parking spaces
- On-site vehicular access including an internal roadway,
- Civil works comprising the following:
 - Stormwater works,
 - Earthworks (cut and fill ranging from 1.6m cut at the eastern portion of the site (under Warehouse 2) to 3.8m of fill at the central and western portions of the site (under Warehouse 1),

- Retaining walls,
- Flood storage and conveyancing, decommissioning and relocation of easements,
- Landscape works, including the retention of the reserve area in the centre south of the site,
- Construction of an on-site outdoor staff area,
- Utility connections,
- Signage,
- Boundary fencing, and
- Use of six (6) tenancies on site for warehouse or distribution centres.

A summary of the proposed development details is provided below in Table 1:

Table 1: Development Data

Control	Proposal
Site area	74,520m ²
GFA	31,161m ²
FSR	0.42:1
Section 4.6 Requests	None
Max Height	18.6 metres
Landscaped area	13,789m ²
Car Parking spaces	176
Setbacks	10 metre front setback

A breakdown of individual tenancy units is provided below in Table 2. All 6 warehouse units are proposed to be a warehouse or distribution centre with permanent (i.e. 24 hours per day and seven days per week) operations. The café structure has no use proposed and would be subject to a future DA or other approval mechanism.

Table 2: Warehouse Specifics

Warehouse	Warehouse	Mezzanine / Office
1A	3,175	500
1B	4,090	500
2A	5,210	500
2B	4,510	500
3A	5,165	500
3B	5,915	500
Café	96	0

2.2 Background

A pre-lodgement meeting with Council was held on 20 April 2023. Council's minutes raised the following concerns:

- Building Design as viewed from Birmingham Ave and the setback from the northern boundary,
- Vehicular access and circulation,
- Protection for sensitive ecological communities on the site and general tree management; and
- Flood management.

After the application was lodged on 7 September 2023, Council wrote to the applicant on 8 December 2023 raising the following issues:

- Signage
- Landscaping
- Building Design
- Biodiversity
- Earthworks

At the Panel's site inspection on 19 December 2023, issues surrounding site planning & layout, flood and stormwater management, protecting ecological communities and tree management were identified to the applicant. After meeting with Council officers to discuss stormwater management and ecological protection, the applicant submitted amended plans on 5 April 2024.

Four key issues were identified following Council's assessment of the amended plans:

- Site contamination,
- Flood management,
- Urban design & site layout and
- Ecological protection.

A chronology of the application follows:

Table 3: Chronology of the DA

Date	Event
7 September 2023	Lodgement of Application.
20 September 2023	Development Application was advertised for a period of 28 days. One (1) submission was received.
8 December 2023	A request for information (RFI) was sent to the applicant containing items related to the following: <ul style="list-style-type: none"> • Planning matters (signage, landscaping, building design). • Environmental matters (avoidance / minimisation of impacts, mitigation measures, insufficient documentation). • Engineering matters (on-site detention, cut and fill levels, car parking) • Traffic matters (VFCs, sight triangles)
19 December 2023	SSPP site visit and meeting held, in which the applicant and their consultants attended. During this meeting, the primary points of discussion were in relation to the outstanding engineering and biodiversity matters.

January 2024	Council Briefing (see key matters raised below). Following return to office, meeting dates were discussed.
14 February 2024	<p>Meeting was held with between Council's Assessing Officer, Council's Development Engineers, the applicant and their engineering consultants to discuss the matters raised in Council's letter, and at the most recent SSPP meeting.</p> <p>Outcome of the meeting:</p> <ul style="list-style-type: none"> • Council's Engineers noted that they would consider the applicants request to vary the OSD. <p>A second meeting was held on this date to discuss the matters raised by Council's Environmental Planner. The outstanding concerns were discussed between Council's assessing officer and team leader as well as the applicant and their Ecologist consultant. The primary matters that were discussed included:</p> <ul style="list-style-type: none"> • The need for the 3:1 tree replacement ratio and failing to achieve this, and whether they can use the offset referred to in the Tree Management Manual; and, • The need to better explain the "avoidance" measures raised by Council's Environmental Planner at the SSPP meeting. <p>The applicant's ecological consultant advised that they would send through a more comprehensive list of the matters that they would like to discuss following the meeting.</p>
21 February 2024	<p>Applicant submitted additional plans for Council's Development Engineers to review.</p> <p>Council's Asset Planning team requested additional information on top of the information requested from the Development Engineers.</p> <p>The applicant was contacted to follow up on their written matters that they would like to further discuss with Council's Environmental Planner.</p>
8 July 2024	<p>A request for information (RFI) was sent to the applicant containing items related to the following:</p> <ul style="list-style-type: none"> • Environmental matters (additional mitigation measures needed). • Engineering matters (changes required to stormwater plans). • Planning matters (landscaping changes needed, better integration of substation, improvements required to design and presentation to the street).
26 July 2024	Amended architectural plans (Rev 17), BDAR, Traffic report and Landscaping plan were received by Council.

3. 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:

- (a) *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),*
- (b) *that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

In this regard, the following environmental planning instruments, development control plans, codes and policies are relevant and considered below:

- 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 (Sustainable Buildings) 2022
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Canterbury-Bankstown Local Environmental Plan 2023 (CBLEP 2023)
- Canterbury-Bankstown Development Control Plan 2023 (CBDGP 2023)
- Canterbury-Bankstown Local Infrastructure Contributions Plan 2022

These matters are further considered below.

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

- Designated Development (s4.10)
- Crown DA (s4.33)

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations.

One tree located within the subject circled areas is proposed for removal which triggers the need for a (BOS). Additionally, as the minimum lot size for the site is 1,500m², the relevant minimum clearing threshold is 0.25 hectares. The proposed development exceeds this threshold, proposing 0.49 hectares of native vegetation clearing. This proposed clearing requires completion of a Biodiversity Development Assessment Report (BDAR). A BDAR accompanies this application, which has utilised the Small Area Assessment to evaluate the proposed impacts on the site.

The development site is located within the Cumberland subregion in the Sydney Basin IBRA bioregion. Vegetation on site and within the wider area is highly fragmented with significant levels of clearing having already been undertaken.

The site contains three (3) identified Threatened Ecological Communities (TECs), being:

- Cumberland Plain Woodland in the Sydney Basin Bioregion (Endangered)
- Cooks River/Castlereagh Ironbark Forest of the Sydney Basin Bioregion (Critically endangered)
- Castlereagh Scribbly Gum Woodland Sydney Basin Bioregion (Vulnerable)

Additionally, Downy Wattle (*Acacia pubescens*) (an ecosystem credit species) has also been identified on the site.

The proposal is considered likely to significantly affect threatened species through the clearing of native vegetation for an area which exceeds the area threshold and which is likely to significantly affect ecological communities. In particular, the proposal seeks authorisation for the removal of 309 of the 424 trees on site which equates to 69% of the vegetation present. Also included within the assessment of the vegetation on site are 70 trees situated on adjoining lands which are located on or near the subject site's boundary. In order to accommodate the proposed development a total of 17 of these trees are nominated for removal which would be subject to appropriate owner's consent being granted before these works could be undertaken. A condition of consent is included within the accompanying recommended conditions which requires separate approval for any works to trees located on adjoining sites. Combined, the number of trees proposed to be removed both on the site and surrounding sites is 309. Of the 309 trees proposed to be removed, 96 are exempt from protection under CBDCA 2023 representing 31% of the proposed removals.

In addition to the removals, a further seven (7) trees are proposed to have their limbs trimmed to avoid conflict with the development's structures. The most common species of trees proposed for removal area as follows:

- *Angophora floribunda* (rough-barked apple)
- *Casuarina glauca* (swamp she-oak)
- *Callistemon viminalis* (red bottlebrush)
- *Melaleuca decora* (white feather honey myrtle)

In part, these types of trees contribute to threatened ecological communities. The proposed layout has been sited so as to maximise the use of the existing footprints. The location of the new warehouses and associated infrastructure is concentrated in the areas occupied by existing industrial buildings, accessways, and car parks. In this regard the development has been designed to avoid where possible and minimise impacts on the TECs. The following percentages of the identified TECs and ecosystem credit species are proposed to be retained through this development:

TEC / Ecosystem Credit Species	Percent Retained
Cumberland Plain Woodland	100%
Cooks River/Castlereagh Ironbark Forest	79%
Castlereagh Scribbly Gum Woodland	79%
Downy Wattle	100%

The removal of pieces of vegetation which constitute parts of the TECs on site triggers a BOS for the development, which necessitates the provision of a BDAR. A BDAR accompanies this application. Despite impacts associated with the proposed development, the BDAR has found that there are no threatened species at risk of a serious and irreversible impact as a result of the proposed development proceeding. The BDAR also notes that the proposed development will not contribute significantly to the risk of a threatened species or ecological community becoming extinct as a result of:

- Causing further declines of species or ecological communities that are currently observed, estimated, inferred or reasonably suspected to be in a rapid rate of decline,
- Further reducing population sizes of affected species or ecological communities that are currently observed, estimated, inferred or reasonably suspected to have a very small population size,
- Impacts on the habitats of species or ecological communities that are currently observed, estimated, inferred or reasonably suspected to have a very limited geographic distribution, and/or
- Impacted species or ecological communities being unable to respond to measures designed to improve their habitats and/or vegetation integrity, thereby preventing replacement of such species.

Further an assessment undertaken in accordance with the Significant Impact Guidelines prepared under the Commonwealth Environment Protection and *Biodiversity Conservation Act 1999* (EPBC Act) found that the development is unlikely to have a significant impact on the Castlereagh Scribbly Gum and Agnes Banks Woodlands community, and that further referral to the Federal Minister for the Environment is unnecessary. The BDAR also provides a series of mitigation measures for unavoidable impacts to native vegetation and habitats during construction works.

The remaining vegetation on site which contributes to TECs or credit species are to be incorporated into the proposed bushland reserve which sits at the southwest portion of the site which can be seen in the aerial below (centre of the image):



Figure 10: Area of bushland reserve (Source: Accompanying BDAR)

The accompanying BDAR and landscape plan require the plantings of 204 trees in addition to the 115 remaining on site which will provide for a greater canopy cover than currently exists on site with a total of 339 trees. The proposed removal and planting of trees has been reviewed by Council's Biodiversity Officer and Tree Management Officer who have provided conditions of consent.

In summary, it is considered that this proposal satisfies the requirements of the Biodiversity Assessment Method to avoid and minimise impacts. Further, the proposed Management Plan for an expanded bushland reserve provides an opportunity to enrich the floristic and structural diversity of the TECs on site, and enhancement of terrestrial fauna habitat by the careful use of logs and coarse woody debris. Council's Biodiversity Officer has reviewed the accompanying material and has provided conditions of consent. The development provides for a suitable outcome which is consistent with the purposes of the *Biodiversity Conservation Act 2016*.

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
- 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 (Sustainable Buildings) 2022
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Canterbury Bankstown Local Environmental Plan 2023

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below.

Table 4: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas <ul style="list-style-type: none"> • Part 2.2 Clearing vegetation in non-rural areas: the development proposes the removal of vegetation on site which is considered suitable subject to replacement plantings by Council's Tree Management and Biodiversity Officers. Chapter 6: Water catchments <ul style="list-style-type: none"> • Part 6.2 Development in regulated catchments: the application is accompanied by sufficient information to satisfy Council with regard to this development in a regulated catchment. 	Y
State Environmental Planning Policy (Industry and Employment) 2021	Chapter 3: Advertising and Signage <ul style="list-style-type: none"> • Part 3.2 Signage generally: the signage proposed is consistent with the aims of Chapter 3. • Schedule 5 Assessment criteria: the signage proposed is considered suitable in accordance with an assessment against relevant criteria. 	Y
State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development <ul style="list-style-type: none"> • Part 2.4 Regionally significant development: in accordance with the criteria of Schedule 6, the development proposed is of 	Y

	regional significance, being a general development with an estimated development cost more than \$30 million.	
State Environmental Planning Policy (Resilience and Hazards) 2021	<p>Chapter 4: Remediation of Land</p> <ul style="list-style-type: none"> Section 4.6 Contamination and remediation to be considered in determining development application: the subject site is zoned IN1 General Industrial, with a history of various industrial activities. A detailed site investigation report accompanies this application which concludes that soil samples analysed had potential for contamination. Accordingly, a remediation action plan was prepared for the site which determined by Council's Environmental Health Officer that subject to recommendations, the site can be made suitable for the development. 	Y
State Environmental Planning Policy (Sustainable Buildings) 2022	<p>Chapter 3: Standards for non-residential development</p> <ul style="list-style-type: none"> The application is subject to Chapter 4 in that it proposes the erection of a new non-residential building with an estimated development cost of at least \$5 million. The application has demonstrated consistency with the expectations of this Chapter regarding the minimisation of waste and the reduction in demand for electricity and water. 	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p>Chapter 2: Infrastructure</p> <ul style="list-style-type: none"> Division 5 Electricity transmission or distribution: the application was referred to Ausgrid who provided advice for any future development on the site. Division 17 Roads and traffic: the application was referred to Transport for New South Wales who provided comment that the development was not expected to provide for impacts on the surrounding classified roadway network as a traffic-generating development. 	Y
Proposed Instruments	There are no proposed instruments applicable to the subject site or the development typology.	N/A
CBLEP 2023	<ul style="list-style-type: none"> Section 1.2 – Aims of plan: the development is consistent with the aims of the plan, regarding contributing to the sustainability of Canterbury-Bankstown, protection landforms and enhancing vegetation, restricting development on land subject to natural hazards and the provision of good urban design. Section 4.3 – Height of buildings: no height of building restriction applies within the map; however the development is consistent with objectives of the section. Section 4.4 – Floor space ratio: the development complies with the maximum permitted FSR. Section 5.21 – Flood planning: the application has demonstrated the suitability of the proposal and conditions of consent have been provided by Council's Assets and Development Engineering divisions. Section 6.2 – Earthworks: the application has demonstrated the suitability of the proposal with regard to potential impacts of earthworks on flooding characteristics of this site and conditions of consent have been provided by Council's Assets and Development Engineering divisions. Section 6.4 – Biodiversity: the proposal is suitable with conditions of consent being provided by Council's Biodiversity Officer. Section 6.15 – Design excellence: the development is consistent with the objective of this section. 	Y

CBDCP 2023	<ul style="list-style-type: none"> • Chapter 2.2 – Flood Risk Management: the application is accompanied by sufficient information to demonstrate a suitable outcome. • Chapter 2.3 – Tree Management: The application proposes the removal of vegetation which is considered suitable subject to replacement plantings. • Chapter 3.1 – Development Engineering Standards: The application has demonstrated consistency with the standards with the Development Engineer providing conditions of consent. • Chapter 3.2 – Parking: The application proposes a compliant parking outcome for the uses on site. • Chapter 3.3 – Waste Management: The development complies with requirements regarding waste. • Chapter 3.6 – Signs: The application complies with requirements. • Chapter 3.7 – Landscape: The application generally complies with requirements, offering an alternate and acceptable solution to strict compliance. • Chapter 9.1 – Industrial Precincts: The application generally complies except for proposed variations which are minor in nature, further detailed within this report and result in an acceptable planning outcome. 	Y
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Consideration of the relevant SEPPs is outlined below:

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 of this SEPP aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. Chapter 2 applies to the whole of Canterbury Bankstown Council, including the subject development site. The application seeks to remove 309 of the 494 trees on site (63% of trees on site). A majority of the trees proposed for removal are not exempt under CDCP 2023 Chapter 2.3. Accordingly, a permit would be required from Council to remove the proposed vegetation. Council's Biodiversity Officer has reviewed the proposed development, with their general terms of approval incorporated within this report as well as provided conditions of consent.

Chapter 6 of this SEPP applies to all development on land in a regulated catchment. Canterbury Bankstown Council includes land within the Georges River Catchment, in which the subject site falls. This chapter has no specific objectives but requires the consent authority to consider a number of matters which are addressed below:

Section 6.6 Water quality and quantity

- The application will have a neutral effect on the quality of water entering the adjoining waterway.
- The application is accompanied by sufficient information in order to determine that the flow of water within the surrounding waterways will not be impacted, primarily as a result of potential excess stormwater run-off from this site.
- The application has supplied sufficient information to determine that the development will not provide for an increase in stormwater run-off compared to what exists on site today.
- The application is not expected to have any impact on the level or quality of the water table.

- The application is accompanied by sufficient information to determine that there will be no cumulative environmental impacts of the development on the catchment.
- The development would have a neutral impact on the quality and quantity of ground water.
- The development is expected to have a neutral impact on the quality of water entering the nearby waterways.
- The application is accompanied by sufficient information to determine the impacts to the water flow within the nearby waterways.

Section 6.7 Aquatic ecology

- The development is not expected to provide for an impact on aquatic ecology.

Section 6.8 Flooding

- The use of the site for warehouse or distribution facilities as well as a café are not expected to provide for impacts on floodwaters, subject to conditions of consent regarding the storage of potentially harmful materials to sit above expected flood levels.
- The development would not have an impact on the recession of floodwaters into wetlands as no wetlands border the site.

Section 6.9 Recreation and public access

- The development will provide no impact on recreation or public access.

Section 6.10 Total catchment management

- Consultation with downstream councils has not been undertaken as it has not been demonstrated that the development will have detrimental impacts on the flow of water downstream to the subject site.

Section 6.11 Land within 100m of natural waterbody

- There is no definition within the subject SEPP, any other EPI or Act which defines a “natural waterbody.”

As detailed within this report, the nearby stormwater channels connect to a river. While the channels have been artificially modified, its purpose is the regular flow of water, meaning that the channel is a natural waterbody.

Section 6.11 requires the consent authority to consider whether the proposed uses are of a water-dependent nature. No definition of ‘water-dependent’ is provided however it is considered that future use of site for warehouse or distribution centres and a café would be suitable for the site and not dependent on water.

The section also requires the consent authority to consider whether conflicts between land uses are minimised. The proposal is not considered likely to bring about conflicts between land uses, noting that surrounding sites are similarly zoned and no land along the waterbody is zoned for recreational purposes.

Section 6.17 Heavy and hazardous industries

- No heavy or hazardous industry use is proposed.

In light of the above comments, the development is considered to be consistent with the relevant provisions in State Environmental Planning Policy (Biodiversity and Conservation) 2021.

State Environmental Planning Policy (Industry and Employment) 2021

The proposal seeks consent for the installation of site signage to identify the development and its uses when viewed from Birmingham Avenue. An assessment of the signage against the aims and objectives of Chapter 3 in State Environmental Planning Policy (Industry and Employment) 2021 has revealed that the building and site identification signs are compatible with the character of the area, provide effective communication and are of high quality design.

The signage is consistent with the specified criteria in Schedule 5 of State Environmental Planning Policy (Industry and Employment) 2021 and that the signage is suitable for the site and the locality in general, being consistent with the expected and desired outcome for the area.

State Environmental Planning Policy (Planning Systems) 2021

Section 2.19(1) of Part 2.4 of SEPP (Planning Systems) 2021 reads as follows;

Development specified in Schedule 6 is declared to be regionally significant development for the purposes of the Act.

Schedule 6 of SEPP (Planning Systems) 2021, in part, reads;

2 General development over \$30 million

Development that has an estimated development cost of more than \$30 million.

The estimated development cost (EDC) of the proposed development is \$65,200,000.00 and exceeds the \$30 million threshold and therefore qualifies as being a 'regionally significant development' and the Sydney South Planning Panel is the determining authority.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 in State Environmental Planning Policy (Resilience and Hazards) 2021 have been considered in the assessment of the application. Section 4.6 of the SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, if it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. Given the previous and existing use of site has been for industrial activities which have included the use and storage of chemical products, the application is accompanied by a detailed site investigation. The investigation provides the key findings:

- Structures on site contain bonded asbestos,
- Soil on site is likely to contain bonded and friable asbestos,
- Part of the site is contaminated with Volatile Organic Compounds (VOCs), Total Petroleum Hydrocarbon (TPH) and Total Recoverable Hydrocarbons (TRH), and
- Presence of one underground storage tank and two aboveground storage tanks which may have or may currently contain hazardous materials.

The recommendations of this report required a Remedial Action Plan (RAP) to be prepared, which accompanies the application.

The RAP recommends the following measures be taken (amongst other measures):

- Investigate the site for further hazardous building materials before demolition,
- Remove hazardous building materials from site by appropriately qualified individuals,
- Remove potentially contaminated structures (tanks),
- Assessment of site in grid pattern to ensure clearance of hazardous building materials,
- Targeted excavation and offsite disposal of significantly impacted soils,
- Screening of samples,
- Laboratory tests of samples,
- Installation of a Geotextile layer over contamination areas, and
- Covering of impacted areas by a 0.5m thick layer of imported soil.

After remediation of the site is completed validation of the works is required. A Long Term Environmental Management Plan (EMP) is to be prepared which aims to prevent damage or degradation of the capping layer, as well as make good any breaches of the layer. Council's Environmental Health Officer has reviewed the application and its accompanying documentation and considered that subject to the recommendations of the submitted reports and further onsite investigations, the site can be made suitable for its intended purpose.

Having regard to the assessment set out above, the consent authority can be satisfied that the site is suitable for the proposed development, in accordance with section 4.6(1) of SEPP (Resilience and Hazards) 2021.

State Environmental Planning Policy (Sustainable Buildings) 2022

SEPP (Sustainable Buildings) 2022 aims to encourage the design and delivery of sustainable buildings, ensure consistent assessment of sustainability in buildings, minimise the consumption of energy, reduce greenhouse gas emissions, minimise the consumption of mains-supplied potable water and to ensure good thermal performance of buildings.

In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—

- The minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials:

Comment: A waste management plan accompanies the application which includes methods to reduce demolition and construction waste.

- A reduction in peak demand for electricity, including through the use of energy efficient technology:

Comment: Recommended conditions of consent to require compliance with DCP Chapter 3.4, clauses 2.2 and 3.1 regarding water conservation and energy minimisation respectively.

- A reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,

Comment: Daylight provided to office levels which will allow for natural heating during winter months.

- The generation and storage of renewable energy

Comment: The roof design is suitable for renewable energy generation though it is not proposed through this application.

- The metering and monitoring of energy consumption.

Comment: Individual units will be able to meter and monitor individual energy usage.

- The minimisation of the consumption of potable water.

Comment: 4 star WELS scheme adopted.

The proposed development is consistent with SEPP (Sustainable Buildings) 2022.

State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021 aims to facilitate the effective delivery of infrastructure across the State. Chapter 2 in State Environmental Planning Policy (Transport and Infrastructure) 2021 applies to infrastructure and aims to facilitate the effective delivery of infrastructure across the State. The following divisions apply to this application:

Division 5 Electricity transmission or distribution

Subdivision 2 – Development likely to affect an electricity transmission or distribution network.

This section applies to development or modification applications which include:

- Penetration of ground within 2 metres of an underground power line
- Works within 10 metres of any part of an electricity tower
- Works immediately adjacent to a substation.
- Works immediately adjacent to an electricity easement.
- Works within 5m of an overhead power line
- Installation of a pool within 30 metres of supporting overhead electricity transmission lines or within 5 metres of overhead power lines

Council referred the application to Ausgrid on 5 December 2023. Ausgrid have provided general terms of approval which incorporated into the accompanying conditions of consent.

Division 17 Roads and traffic

Subdivision 2 Development in or adjacent to road corridors and road reservations

2.122 Traffic-generating development

This section applies to new premises of the relevant size or capacity and enlargement of existing premises if the enlargement of the relevant size and capacity ([Schedule 3](#)).

Council referred the application to TfNSW on 18 August 2024. TfNSW have provided comment that the development is not expected to provide impacts on the nearby classified road network.

Canterbury Bankstown Local Environmental Plan 2023

The relevant local environmental plan applying to the site is the Canterbury Bankstown Local Environmental Plan 2023 ('the LEP').

Aims

The aims of the LEP include:

- to manage growth in a way that contributes to the sustainability of Canterbury-Bankstown,
- to protect landforms and enhance vegetation, especially foreshores and bushland, in a way that maintains the biodiversity values and landscape amenity of Canterbury-Bankstown,
- to restrict development on land that is sensitive to urban and natural hazards,
- to provide a range of business and industrial opportunities to encourage local employment and economic growth and retain industrial areas,
- to achieve good urban design in terms of site layouts, building form, streetscape, architectural roof features and public and private safety,
- to consider the cumulative impact of development on the health of the natural environment and waterways and on the capacity of infrastructure and the road network,
- to ensure development is accompanied by appropriate infrastructure,

The proposal is consistent with the aims of the LEP and is considered to provide for protection of the environment, the provision of good urban design and the protection of needed industrial land within the metropolitan region.

Zoning and Permissibility

The site is zoned IN1 General Industrial pursuant to section 2.2 of the LEP.

The proposed land uses of warehouse or distribution centre as well as a café are permissible land uses with consent within the zone.

The zone objectives include the following (pursuant to the Land Use Table in section 2.3):

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To promote a high standard of urban design and local amenity.

The proposal is consistent with these objectives through the provision of warehouse land uses which will encourage employment within the area and protect industrial land uses for future generations. Future use of the café facility on site will allow additional employment opportunities while respecting the surrounding land uses. The design of the development promotes a high standard of urban design and local amenity which includes well-landscaped areas, site signage and adequate staff amenity areas.

General Controls and Development Standards

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 5** below.

Table 5: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Height of buildings	No standard	18.6 metre maximum building height which is consistent with	Y

(CI 4.3(2))		expected outcome within an established industrial area where no height restriction applies.	
FSR (CI 4.4(2))	1:1	GFA = 31,161m ² Site Area = 74,520m ² FSR = 0.42:1.	Y
CI. 5.21 Flood Planning	Minimise flood risk to life and property, avoid adverse cumulative impacts on flood behaviour.	The proposal has been reviewed by Council's Asset Officer and Development Engineer who have provided conditions of consent.	Y
CI. 6.2 Earthworks	Ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses.	<p>The proposal seeks extensive earthworks to the site in order to level out the building footprints for Warehouses 1, 2 and 3. As the site slopes downhill from east to west, the eastern portion of the site is proposed to be cut, with the maximum cut of 1.6m underneath the eastern elevation of Warehouse 3. The proposed ground floor RL of 26.5m AHD then requires increasing levels of fill towards the central and western portions of the site, culminating at the western elevation of Warehouse 1 where 3.8m of fill is proposed.</p> <p>The slight also contains a minor slope from north downhill to south, which results in cut proposed along the northern elevation of Warehouse 2, transitioning to fill along the southern elevation of Warehouse 2.</p> <p>Warehouse 3 is also proposed to utilise both cut and fill measures, with 1.1m of cutting along the eastern elevation, transitioning to 3m of fill along the western elevation.</p> <p>Retaining walls of up to 3.3m are proposed to transition the levels of cut and fill to existing natural ground levels on adjoining sites as well as areas of the subject site which are not proposed to be altered such as the reserve area in the central, southern portion of the site.</p>	Y

		The proposal has demonstrated that the proposed earthworks are capable of being carried out safely on site without causing detrimental impacts to the flooding characteristics of the site or adjoining properties. The earthworks proposed are a suitable planning outcome which will accommodate use of the site for warehousing activities.	
Cl. 6.4 Biodiversity	Protection of native flora and fauna.	Accompanying reports have been reviewed by Council's Biodiversity Officer who has provided general terms of approval.	Y
6.15 Design excellence	Ensure that development exhibits high quality architectural, urban and landscape design	The development has demonstrated design excellence through the proposed site layout, materials and finishes and overall amenity afforded to future occupants of the site.	Y

The proposal is generally inconsistent with the LEP.

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

There are no applicable proposed instruments.

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

The following Development Control Plan is relevant to this application:

Canterbury Bankstown Development Control Plan 2023 ('the DCP')

Table 6: Consideration of the DCP Controls

Control	Requirement	Proposal	Comply
Chapter 2.2 3.1 Flooding	The proposed development should not result in any significant increase in risk to human life, or in a significant increase in economic or social costs as a result of flooding.	The application has been reviewed by Council's Development Engineer who has provided conditions of consent.	Y
Chapter 2.2 3.3 Flooding	Development should not significantly increase the potential for damage or risk other properties either individually or in combination with the	The application has been reviewed by Council's Development Engineer who has provided conditions of consent.	Y

	cumulative impact of development that is likely to occur in the same floodplain.		
Chapter 3.1 3.1 Development impacted by stormwater systems	Applicants must apply to Council for a Stormwater System Report (SSR), prior to DA submission, if the site is noted on Council's SSR register as affected by Council's stormwater drainage pipelines and/or affected by potential local stormwater flooding.	The application has been reviewed by Council's Development Engineer who has provided conditions of consent.	Y
Chapter 3.2 2.1 Off-street parking rates	Café: 1:40m ² Warehouse 1:300m ²	The required parking is comprised of the following elements: <ul style="list-style-type: none"> • Warehouse: 94 spaces • Office: 30 spaces • Café: 2 spaces Total Car Parking: 126 Total Bike Parking: 20 Proposed Car Parking: 179 Proposed Bike Parking: 42	Y
Chapter 3.3 5.1 All industrial development types	Development must provide bin storage and separation facilities within each tenancy and within the communal bin room.	Individual waste storage facilities are provided within each unit, with Council's Resource Recovery Officer providing conditions of consent.	Y
Chapter 3.6 Signs	Industrial sites limited to 1 pylon sign for identification.	1 pylon sign proposed at front elevation.	Y
Chapter 3.7 2.1 Existing vegetation and natural features	New landscaping is to complement the existing street landscaping and improve the quality of the streetscape.	The provided landscape plan demonstrates the effective incorporation of existing vegetation on site into new and improved landscaped setbacks from the street.	Y
Chapter 3.7 2.7 Trees	Development must plant at least one canopy tree for every 12 metres of front and rear boundary width and: Canopy trees are to be of a minimum 75 litre pot size.	The application proposes a variation to the tree planting rate but is accompanied by a landscape plan which has been reviewed by Council's Biodiversity Officer and Tree Management Officer as being consistent with the expected outcome for the site despite the non-compliance.	N (see below)
Chapter 9.1 2.1	A maximum 70% site cover is required.	34,803m ² / 74,520m ² = 48% site cover.	Y

Site cover			
Chapter 9.1 2.2 Street setbacks	<p>This clause applies to land within the former Bankstown Local Government Area:</p> <p>b. Where sites do not adjoin a state or regional road, the minimum setback to:</p> <p>the primary street frontage is 10m;</p>	A 10m landscaped front setback is provided, though the substation is proposed to sit within this setback.	N (see below)
Chapter 9.1 2.11 Open space	<p>Development must:</p> <p>a. retain and protect any existing trees identified by Council on an allotment and adjoining allotments, and;</p> <p>b. must not change the natural ground level within 3 metres of the base of the trunk or within the dropline, whichever is greatest.</p>	The application seeks to remove non-exempt vegetation, with the proposal having been reviewed by Council's Biodiversity Officer and Tree Management Officer who have provided conditions of consent.	Y
Chapter 9.1 2.12 Open space	Development must plant at least one street tree at 5m intervals along the length of the primary and secondary street frontages. Council may vary this requirement in response to proposed tree species, site constraints limit their inclusion or a street tree already exists in good condition.	Conditions of consent provided by Council's Biodiversity Officer and Tree Management Officer permit a variation to this control through a better environmental outcome which is designed for the site and the proposed planting species.	N (see below)
Chapter 9.1 2.13 Open space	Development must plant trees in the landscaped area at a minimum rate of one canopy tree per 30m ² of the landscaped area. The canopy tree must be capable of achieving a mature height greater than 5m.	Conditions of consent provided by Council's Biodiversity Officer and Tree Management Officer permit a variation to this control through a better environmental outcome which is designed for the site and the proposed planting species.	N (see below)
Chapter 9.1 2.15 Employee amenities	Provide an employee amenity area of at least 25m ² in area which includes a combination of grass, plantings, pavement, shade, and seating to allow employees to engage in a pleasant working environment.	The application provides for an employee amenity area situated within the landscape reserve in the southern, central portion of the site which has been designed to provide a pleasant, year-round environment for the enjoyment of employees on site.	Y

Chapter 9.1 5.8 Building design (substations)	Substations should locate underground. Where not possible, substations are to be integrated into the building design and concealed from public view.	Substation proposed within the front setback as requested by relevant electricity authority.	N (see below)
Chapter 9.1 3.2 Façade design	Development may have predominantly glazed facades provided it does not cause significant glare nuisance.	Glazing proposed for offices which allows natural light and permeability of facades.	Y
Chapter 9.1 5.11 Front fences	The maximum fence height for front fences is 1.8m.	Boundary fencing to a height of 2.1m is proposed along side boundaries which is consistent with industrial areas. Front fencing to a height of 2.4m is proposed.	N (see below)
Chapter 9.1 5.13 Front fences	Council does not allow chain wire fencing.	Palisade fencing is proposed along the front setback of the development site.	Y

Chapter 3.7. Clause 2.7: This clause requires the planting of a canopy tree every 12 metres along the front and rear boundary for industrial sites. The application is accompanied by an arborist report which makes recommendations for replacement plantings which has been reviewed by Council's Tree Management Officer as suitable for the site despite the non-compliance which may cause for canopy overcrowding based on the scale and spread of the proposed tree plantings. The proposal includes planting three (3) canopy trees along the rear setback and 16 canopy trees in the front setback, which are included within the 248 tree plantings proposed on site.

Chapter 9.1, Clause 2.2: This clause requires a 10-metre-deep landscaped setback for industrial developments. While the subject development generally adheres to this requirement, there are minor encroachments within the setback for a substation. Evidence to demonstrate the suitability of the substation location has been provided with the application and the substation has been incorporated into the landscape plan to lessen its visual impacts on the streetscape. The proposal is consistent with the expected outcome of this control which seeks to provide for a well-designed landscaped front setback within industrial areas.

Chapter 9.1, Clause 2.12 and Clause 2.13: These clauses require certain rates of tree plantings along street frontages and within landscaped areas. The application is accompanied by an arborist report which makes recommendations for replacement plantings which has been reviewed by Council's Tree Management Officer and Council's Biodiversity Officer as suitable for the site and the plantings chosen, notwithstanding the non-compliance. A lesser rate of planting in this instance is preferable as compliance may cause for canopy overcrowding based on the scale and spread of the proposed tree plantings. Despite the non-compliance the application has demonstrated a suitable landscaping outcome which provides for enhancements to existing native vegetation and includes 248 tree plantings on site and a total of 20,016 vegetation plantings which are shown on the provided landscape plans.

Chapter 9.1, Clause 5.8: requires that a substation on site be located underground or integrated into the development and screened from view. The subject application proposes a substation which is located within the front landscaped setback. Ausgrid have requested this substation be located at the front of the site. The substation would not dominate the view of

the subject site and would be partially shielded by vegetation which is proposed to boarder the substation.

Chapter 9.1, 5.11: requires that the maximum height for a front fence not exceed 1.8 metres. This control seeks to establish a consistent character of fencing in an industrial area by controlling the size of fencing, in addition to other controls which restrict the design of fencing. The subject application proposes a maximum fence height of 2.4 metres, representing a 33% variation to the control. The application complies with controls regarding the design of fencing. The objective of the variation is to ensure the security of the facility which will operate 24 hours a day and to discourage unauthorised dumping of rubbish. Notwithstanding the non-compliance, the proposal provides for an acceptable outcome within an establish industrial precinct and is worthy of support.

Development Contributions

The following contributions plan is relevant pursuant to Section 7.18 of the EP&A Act and have been considered:

- Canterbury Bankstown Local Infrastructure Contributions Plan 2022

An amount of \$731,400.57 in s71.2 contributions is required to be paid to Council before the issue of a construction certificate.

(c) 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.

(d) Section 4.15(1)(a)(iv) - Provisions of Regulations

The proposal is consistent with the relevant provisions of the Regulations. Of particular concern is the need to consider fire safety and the development incorporates suitable fire safety measures. The proposal includes a vehicular access way around the site parameter to allows vehicles the access the whole site to combat fire if the need arises.

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of a 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 outlined above.

- Context and setting – The proposal is generally consistent with the context of the site, in that the proposed warehouse or distribution centre is appropriate in terms of bulk and scale and provides employment opportunities within an existing industrial area.
- Access and traffic – The proposed development has been assessed by Council's Traffic division as well as Transport for New South Wales who have both considered the development suitable for the locality and that it would not bring about adverse impacts on traffic in the area.
- Utilities – The application is accompanied by substation advice from Ausgrid as well as having been referred to Ausgrid during the assessment process. The resultant

development would not provide for adverse impacts on the utility infrastructure within the area.

- Contamination – As is demonstrated in the accompanying reports, the land is currently contaminated and can be made suitable for the proposed development.
- Natural hazards – The application is satisfactory in terms of information to allow the consent authority to determine that the development would not provide for unacceptable levels of hazards to both personal safety and life as well as economic impacts.
- Economic impact – The proposal would provide for an increase in economic activity by deliver modern, well-designed warehouse and distribution facilities in an existing industrial environment with good access to public transport.
- Site design and internal design – The proposal is appropriately set out on the site.
- Cumulative impacts – The application is accompanied by information which demonstrates that approval of the development would not result in adverse cumulative impacts including Council stormwater infrastructure, characteristics of floodwaters in the locality and the preservation of life and property.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

3.3 Section 4.15(1)(c) - Suitability of the site

The proposal is suitable for the site. The development proposes an appropriate bulk and scale as well as land use for the area. The development would result in the redevelopment of a currently underutilised site within an existing industrial precinct, supporting the region's need for new warehousing facilities while avoiding adverse impacts on the locality.

3.4 Section 4.15(1)(d) - Public Submissions

Council received one submission opposing the proposal based on the economic impact of the proposed café. While many businesses may be concerned when a new business is proposed near them, especially if that new business represents a potential competitor, the introduction of a second cafe into the locality is not justifiable grounds to refuse the proposed café.

3.5 Section 4.15(1)(e) - Public interest

Approval of the development will be within the public interest as demonstrated within this report.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment as required by the EP&A Act and outlined below in Table 6.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommendations of these agencies being adopted.

Table 7: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
N/A	None	None	N/A
Referral/Consultation Agencies			
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Ausgrid has provided conditions of consent.	Y
Transport for NSW	Section 2.122 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	TfNSW has reviewed the application and has no requirements as the proposed development will not have a significant impact on the classified road network.	Y
Integrated Development (S 4.46 of the EP&A Act)			
WaterNSW	Sections 90(2) and 91(2) – <i>Water Management Act 2000</i> water use approval, water management work approval or activity approval under Part 3 of Chapter 3	WaterNSW has provided conditions of consent.	Y

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 8**.

Table 8: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Development Engineer reviewed the submitted stormwater concept plan and has provided conditions of consent.	Y
Traffic	Council's Traffic and Transportation Officer reviewed the proposal and raised concerns in relation to vehicle manoeuvring which were resolved through amended plans.	Y
Building	Council's Building Surveyor reviewed the proposal and provided conditions of consent.	Y
Health	Council's Environmental Health Officer reviewed the proposal including the DSI and RAP and has provided conditions of consent for the proposal.	Y
Waste	Council's Resource Recovery Officer reviewed the proposal and provided conditions of consent.	Y

Tree	Council's Tree Management Officer reviewed the proposal including the arboricultural report and provided conditions of consent.	Y
Assets	Council's Assets Officer has reviewed the proposal and provided conditions of consent.	Y
Urban Design	Council's Design Review Panel reviewed the proposal and put forward potential changes which were in part adopted through amended plans, with the final set of plans demonstrating design excellence.	Y
City Plan & Transformation	Council's Environmental Planner reviewed the proposal and provided conditions of consent	Y

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 20 September 2023 to 18 October 2023. The notification included the following:

- An advertisement in the local newspaper [Torch].
- A sign placed on the site.
- Notification on a website.
- Notification letters sent to adjoining and adjacent properties.
- Notification on the Council's website.

The Council received a total of one (1) submission was received which pertain to matters which sit outside the scope of a s4.15 assessment (see discussion under s3.4 above).

5. KEY ISSUES

At lodgement, the application contained a number of key issues which are outline below, all of which have been satisfactorily addressed.

5.1 Flooding

The site has been designed to allow for the passage of overland flow waters through the site into the nearby stormwater channels.

5.2 Stormwater Management

The application has demonstrated that on-site detention is not required, but that stormwater can be adequately managed through other means.

5.3 Biodiversity

The application has demonstrated through the submission of an arboricultural report and BDAR at the proposed tree removal and replacement plantings are suitable for the site and will not provide for undue adverse impacts on threatened species.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the *Environmental Planning & Assessment Act 1979* 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 is worthy of support.

The application proposes a compliant built form outcome and land use and is generally consistent with what is expected to be provided within an established industrial zone despite

some departures from the DCP. Where variations to the DCP are proposed such as in tree planting or the location of the substation, an equal or better planning outcome has been demonstrated to justify the departure. Council's concern about the proposed impact on the existing native vegetation on the site and how it is to be protected if this site were to be developed has been satisfactorily addressed after many reviews of the proposal. On this basis, the application seeks to redevelop an existing warehousing site for facilities which are better suited for future activities than the current site can provide.

Based on the assessment contained within this report, it is recommended that the application be approved subject to recommended conditions of consent.