

SWCPP Ref. No.:	PPSSWC-229
DA No.:	DA22/0131
PROPOSED DEVELOPMENT:	Construction of a Warehouse (comprising of 4 occupancies) and associated works
PROPERTY ADDRESS:	68 Lockwood Road, ERSKINE PARK NSW 2759
PROPERTY DESCRIPTION:	Lot 102 DP 1268632,
ZONING:	SEPP - (WSEA) 2009 - ZONES IN1 + C2
CLASS OF BUILDING:	Class 7b
ASSESSING OFFICER	Robert Walker
APPLICANT:	Fitzpatrick Investments Pty Ltd
DATE RECEIVED:	14 February 2022
REPORT BY:	Robert Walker, Senior Development Assessment Planner, Penrith City Council
RECOMMENDATIONS:	Approve

Assessment Report

Executive Summary

Council is in receipt of a Development Application, which seeks Development Consent for the construction of a four (4) occupancy warehouse building with awnings, and associated car parking areas, landscaping works and fencing, at No. 68 Lockwood Road, Erskine Park.

The overall site consists of a single allotment, which is in three (3) portions, dissected by Lockwood Road and Compass Drive, with a total area of approximately 53.91 hectares. The site also has frontages to Lenore Drive, and also adjoins the Ropes Creek and the Water NSW Warragamba Pipelines Corridor. All of the proposed works are located on the portion of the of the overall site to the west of Compass Drive. The neighbourhood is characterised by warehousing type developments.

A portion of the site forms part of the 'Erskine Business Park / Ropes Creek Riparian Biodiversity Conservation Area', following the making of a Planning Agreement between the Minister (adminstrating the Environmental Planning and Assessment Act 1979) and the Owner of the site. The proposal does not involve any works within this portion of the site.

The site is zoned both 'IN1 – General Industrial' and 'C2 – Environmental Conservation', pursuant to State Environmental Planning Policy (Western Sydney Employment Area) 2009. 'Warehouses or distribution centres' are permitted with consent in the 'IN1 – General Industrial' zone and the proposal does not involve any works within the 'C2 – Environmental Conservation' portion of the site.

It is noted that the proposal is dependent upon the completion of bulk earthworks and the construction of a road, which was recently approved, pursuant to Development Consent No. 21/0801.

The application, as originally lodged, was notified to adjacent property owners. This process resulted in one (1) submission being received, which was from Water NSW and did not raise any specific objections to the

development.

Written notice of the application was given to Transport for NSW, pursuant to the 'Traffic Generating Development' provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021, and no objection was raised.

The application was referred to the Secretary of the Department of Planning, in accordance with State Environmental Planning Policy (Western Sydney Employment Area) 2009, and no objection was raised and a 'Secretary's Certificate' (advising that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services) was issued.

The Capital Investment Value of the proposed development has been estimated as being \$40,150,000. As such is more than \$30 million, pursuant to Section 2.19 and Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021, the proposal is declared as being 'Regionally Significant Development'. Accordingly, the Sydney Western City Planning Panel is the 'Consent Authority'. As the proposed development does not relate to a single 'warehouses or distribution centre', with a Capital Investment Value of more than \$30 million, such is not declared to be 'State Significant Development', pursuant to Section 2.6 and Schedule 1 of State Environmental Planning Policy (Planning Systems) 2021.

Initial assessment of the application as originally lodged identified substantial issues, including in relation to setback non-compliances to Lockwood Road and of the awning to the alignment of a future / approved road, non-compliant building height and associated streetscape issues, unsatisfactory landscaping, and insufficient information. These matters were raised with the Applicant by way of a letter dated 18 March 2022. Subsequently amendments have been made to the proposal and additional information provided.

It is noted that the proposal as amended now does not seek Development Consent for the use of the premises, provides an increased building setback to Lockwood Road, provides a more articulated building design and more varied building materials, includes awnings which are substantially shorter than that originally proposed and enhanced landscape plantings.

An assessment of the application has been undertaken pursuant to Section 4.15 of the Environmental Planning & Assessment Act 1979. Overall, it is considered that the proposal is unlikely to result in any unreasonable environmental impacts and is not contrary to the public interest. Having regard to the relevant planning provisions, it is recommended that the application be approved, subject to the attached recommended conditions.

Site & Surrounds

The site consists of a single allotment (Lot 102 DP 1268632), commonly known as Nos. 68 Lockwood Road, Erskine Park. The site is in three (3) portions, dissected by Lockwood Road and Compass Drive, with a total area of approximately 53.91 hectares.

The site has frontages to Lockwood Road, Compass Drive and Lenore Drive, and also adjoins the Ropes Creek and the Water NSW Warragamba Pipelines Corridor.

Portions of the site, alongside the southern and eastern site boundaries, form part of the Erskine Business Park / Ropes Creek Riparian Biodiversity Conservation Area.

Improvements to the site are limited to an existing warehouse, with associated car parking and loading dock areas, which is located in the western portion of the site, addressing Lockwood Road, immediately to the north of the proposed warehouse building.

The neighbourhood is characterised by warehousing type developments.

Development Applications previously approved in relation to the overall site, which are of relevance to the subject proposal, include:

- Development Application No. 06/0042, for bulk earthworks, in the western part of the overall site.
- Development Application No. 06/1646, for the remediation of contaminated areas.
- Development Application No. 19/0817, for the formation of a detention basin and associated civil and earthworks, in the north eastern corner of the overall site.
- Development Application No. 19/0818, for bulk earthworks and stormwater works, in the eastern part of the overall site.
- Development Application No. 20/0493, for the subdivision of one (1) lot, into two (2) lots (which provided for the creation of the existing allotment).
- Development Application No. 21/0801, for the subdivision of one (1) lot into two (2) lots, bulk earthworks, construction of a road and construction of a two (2) occupancy warehouse type building.

Proposal

The application (as has been amended) seeks Development Consent for:

- Construction of a warehouse building, comprising of four (4) occupancies, with warehouse areas of 11,788 sqm, 12,623 sqm, 11,284 sqm and 10,660 sqm. All occupancies are serviced by offices (each approximately 500 sqm in area), loading docks and loading dock offices (each approximately 50 sqm in area).
- Awnings (20m wide) covering elements of the loading dock area.
- Car parking areas comprising of a total of 245 spaces, which includes four (4) accessible spaces and services to allow for future adaptation of car parking spaces for installation of Electric Vehicle Charging Stations.
- Associated works, including earthworks, landscaping and fencing.

The application does not involve the use of the building / tenancies.

It is noted that all of the proposed works are located on the portion of the of the overall site to the west of Compass Drive. Furthermore, the proposal is dependent upon bulk earthworks and road construction, pursuant to Development Consent No. 21/0801.

Plans that apply

- Development Control Plan 2014
- 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 (Precincts—Western Parkland City) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Western Sydney Employment Area) 2009

Planning Assessment

- **Section 4.14 - Bushfire prone land assessment**

The application was accompanied by a Bushfire Assessment Report (which was prepared by a 'BPAD' / qualified Bushfire Risk Assessment Consultant), outlining that the proposal complies with the intent of the relevant aims and objectives of Planning for Bushfire Protection 2019.

Accordingly, it is considered that the proposal satisfies the associated provisions of Planning for Bushfire Protection 2019, subject to the imposing of associated conditions.

- **Section 4.15 - Evaluation**

The proposed development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, and having regard to those matters, the following matters have been identified for consideration.

- **Section 7.12 - Developer Contributions**

Development Contributions are applicable to the proposal, pursuant to the Penrith Section 7.12 Citywide Development Contributions Plan for Non-Residential Development. Accordingly a condition is to be imposed requiring payment of such.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Biodiversity and Conservation) 2021

An assessment has been undertaken of the proposal against the relevant criteria within Chapter 6 (Bushland in urban areas) and Chapter 9 (Hawkesbury - Nepean River), which found the proposal to be satisfactory in relation to such.

State Environmental Planning Policy (Industry and Employment) 2021

Pursuant to Clause 2.45 of State Environmental Planning Policy (Industry and Employment) 2021, Chapter 2, which relates to the Western Sydney Employment Area, does not apply to or in respect of a Development Application, made (but not finally determined) before the commencement of such. As the subject application was made on 14 February 2022, prior to the commencement of State Environmental Planning Policy (Industry and Employment) 2021 on 1 March 2022, such does not apply.

State Environmental Planning Policy (Planning Systems) 2021

The Capital Investment Value of the proposed development has been estimated as being \$40,150,000 (exclusive of GST), accordingly (as such is more than \$30 million is) pursuant to Section 2.19 and Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021, the proposal is declared to be 'Regionally Significant Development'. Therefore pursuant to Clause 4.5 (b) of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel is the 'Consent Authority'.

Furthermore, as the proposed development does not relate to a single 'warehouses or distribution centre', with a Capital Investment Value of more than \$30 million, such is not declared to be 'State Significant Development', pursuant to Section 2.6 and Schedule 1 of State Environmental Planning Policy (Planning Systems) 2021.

State Environmental Planning Policy (Precincts—Western Parkland City) 2021

While the site is located within the '13km Wildlife Buffer Zone' area, the proposal does not relate to any purpose defined as 'relevant development' for the purpose of Clause 4.19 of State Environmental Planning Policy (Precincts - Western Parkland City) 2021, and therefore no further assessment is required pursuant to such.

The site is located within the 'Obstacle Limitation Surface' area. It is noted that the proposal does not penetrate the identified prescribed air space and accordingly no further assessment is required pursuant to Clause 4.22 of State Environmental Planning Policy (Precincts - Western Parkland City) 2021.

Accordingly the proposal is considered to satisfy the provisions of State Environmental Planning Policy (Precincts-Western Parkland City) 2021.

State Environmental Planning Policy (Resilience and Hazards) 2021

Pursuant to Clause 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021, Development Consent must not be granted unless consideration has been given to whether the land is contaminated.

Contamination issues for the overall site, have previously been considered and resolved, associated with Development Consent No. 06/1646. Council records indicates that a Validation Report (dated November 2008), was provided subsequent to remediation works being undertaken and confirmed that the risk of contamination of the site was greatly reduced following the remediation works being undertaken. Furthermore, the subject application was referred to Council's Environmental Health Officer, who supported the proposal, subject to conditions being imposed.

Accordingly, it is considered that the proposal is satisfactory having regard to the provisions of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The overall site has frontage to 'Lenore Drive', which listed as a 'classified road'. Given the proposed vehicular access arrangements (being from Lockwood Road) and the overall nature of the development, the proposal will not adversely affected the operation of the classified road. Accordingly it is considered that the proposal is consistent with the provisions of Clause 2.119 (2) (a) & (b).

Given the type of the development, it is considered that such is not sensitive to traffic noise or vehicle emissions. Accordingly the provisions of Clause 2.119 (2) (c) have been satisfied.

Given that the proposal involves the construction of a 'warehouse or distribution centre', which comprises of (at least) 8,000 sqm of gross floor area, Clause 2.122 (being for 'Traffic Generating Development') applies to the proposal. Accordingly, pursuant to Clause 2.122 (4) (a), written notice of the application was given to Transport for NSW. In response to such, Transport for NSW advised that the traffic generation of the development is consistent with the road network planning for the area and raised no objection, subject to the Council's approval and conditions (which have been included within the recommended conditions). Accordingly the provisions of Clause 2.122 have been satisfied.

A portion of the site is identified as 'affected land' (being indicated on the State Environmental Planning Policy (Infrastructure) 2007, Water Supply Infrastructure Map), for the purpose of Clause 2.163, given that the site adjoins the Corridor of the Warragamba Pipelines. However, given that the proposal does not involve any works within the portion of the site is identified as 'affected land', it is considered that such is not inconsistent with the 'Guideline for Development adjacent to the Upper Canal and Warragamba Pipelines'. Accordingly the provisions of Clause 2.163 have been satisfied.

State Environmental Planning Policy (Western Sydney Employment Area) 2009

Pursuant to Clause 4 of State Environmental Planning Policy (Western Sydney Employment Area) 2009, such applies to land identified on the 'Land Application Map'. The subject site is identified, by the 'Land Application Map' of State Environmental Planning Policy (Western Sydney Employment Area) 2009, as being located within Precinct 7 ('Erskine Park Employment Lands').

The site is zoned both 'IN1 – General Industrial' and 'C2 – Environmental Conservation', pursuant to State Environmental Planning Policy (Western Sydney Employment Area) 2009. 'Warehouses or distribution centres' are permitted with consent in the 'IN1 – General Industrial' zone and the proposal does not involve any works within the 'C2 – Environmental Conservation' portion of the site.

The objectives for the 'IN1 – General Industrial' zone are:

- To facilitate a wide range of employment-generating development including industrial, manufacturing, warehousing, storage and research uses and ancillary office space.
- To encourage employment opportunities along motorway corridors, including the M7 and M4.
- To minimise any adverse effect of industry on other land uses.
- To facilitate road network links to the M7 and M4 Motorways.
- To encourage a high standard of development that does not prejudice the sustainability of other enterprises or the environment.
- To provide for small-scale local services such as commercial, retail and community facilities (including child care facilities) that service or support the needs of employment-generating uses in the zone.

It is considered that the proposal is consistent with the following objectives, while not being inconsistent with the other objectives:

- To facilitate a wide range of employment-generating development including industrial, manufacturing, warehousing, storage and research uses and ancillary office space.
- To encourage employment opportunities along motorway corridors, including the M7 and M4.
- To encourage a high standard of development that does not prejudice the sustainability of other enterprises or the environment.

The objectives for the 'C2 - Environmental Conservation are:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

It is considered that the proposal is consistent with both of these objectives.

Consequently the proposal satisfies the provisions of Part 2 of the Western Sydney Employment Area SEPP.

The following outlines assessment of the proposal in accordance with the remaining relevant provisions of the Western Sydney Employment Area SEPP.

Assessment against Clause 18 (Requirement for Development Control Plans)

Part E6 of the Penrith Development Control Plan 2014 was prepared specifically for the 'Erskine Business Park' (which includes all of Precinct 7, along with other adjacent land) and the application has been

assessed having regard to the relevant provisions (as detailed within this report).

Assessment against Clause 20 (Ecologically Sustainable Development)

The proposal includes areas on the warehouse roof for solar panels and the layout makes provision for the future installation of electric vehicle charging, which will support the energy efficiency of the development. Rainwater harvesting (including use for toilet flushing and irrigation) is also proposed and LED lighting will be used throughout the building. It is recommended that associated conditions be imposed to provide for the completion of committed elements.

Assessment against Clause 21 (Building Height)

The positioning and design of the proposed building is considered to be appropriate when having regard to the topography of the site. While it is noted that the site is not located adjacent to any residential areas.

Accordingly, it is considered that the proposal is consistent with the provisions of Clause 21.

Assessment against Clause 22 (Rainwater Harvesting)

The proposal provides for the harvesting of rainwater (including use for toilet flushing and irrigation). It is recommended that conditions be imposed, in relation to all the connection of the main roof area to the proposed rainwater tanks and the re-use of water.

Assessment against Clause 25 (Public Utility Infrastructure)

It is recommended that associated conditions be imposed to ensure that the access to suitable public utility infrastructure is provided and satisfy the associated provisions of Clause 25.

Assessment against Clause 26 (Development on or in vicinity of proposed transport infrastructure routes)

The site is dissected by and adjoins 'proposed roads' shown on the Transport and Arterial Road Infrastructure Plan Map (which have now been formed). Accordingly, the application was referred to the Secretary of the Department of Planning and in response the Department of Planning and Environment responded with 'no comment'.

Accordingly, the application has satisfied Clause 26.

Assessment against Clause 29 (Satisfactory arrangements for provision of regional transport infrastructure and services)

The application was referred to the Secretary of the Department of Planning and in response the Department of Planning and Environment responded with the issuing of a 'Secretary's Certificate', advising that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services.

Accordingly, the application has satisfied Clause 29.

Assessment against Clause 31 (Design Principles)

The overall layout and built form, provides adequate building setbacks to all street frontages, provides articulated elevations, includes a variety of building materials. Accordingly, it is considered that the proposal is high quality in design, and is in keeping with the scale and character of the existing adjacent development.

Overall, subject to the refinement of the proposed landscaping scheme (through the imposing of the associated recommended conditions), which shall ultimately provide significant landscape screening of the building, it is considered that the proposal is consistent with the provisions of Clause 31.

Assessment against Clause 33F (Development of land adjacent to Airport)

The proposed development is not of a type that is likely to attract birds or animals of a kind, and is unlikely to increase the hazards of operating an aircraft.

Accordingly, it is considered that the proposal is consistent with the provisions of Clause 33F.

Assessment against Clause 33H (Earthworks)

The associated earthworks are unlikely to disrupt existing drainage patterns or soil stability in the locality, impact upon the amenity of any adjoining land, disturb any relics, or impact upon any waterways or environmentally sensitive area.

Accordingly, it is considered that the proposal is consistent with the provisions of Clause 33H.

Assessment against Clause 33K (Consent for clearing native vegetation)

The proposal does not include any works, including any vegetation clearing, within the portion of the site zoned 'C2 - Environmental Conservation'.

Assessment against Clause 33L (Stormwater, water quality and water sensitive design)

The overall development incorporates water sensitive design elements, integrated stormwater management elements which shall minimise impacts on adjacent land, riparian areas and bushland. Assessment of the proposal, including by Council's Catchment Management Officer, has found that the overall development is unlikely to unreasonably impact upon the water quality or quantity in any waterway, natural water flows, the aquatic environment or the stability of any waterway.

Accordingly, it is considered that the proposal is consistent with the provisions of Clause 33L.

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

Amendments to the State Environmental Planning Policy (Water Catchments) 2022 and Environmental Planning and Assessment (Water Catchments) Regulation 2022 were gazetted on Friday 21 October 2022. The amendments commence on 21 November 2022 and include amendments to the following:

- SEPP Biodiversity and Conservation,
- Schedule 2 Amendment of LEPs, including changes to Penrith Local Environmental Plan 2010,
- SEPP Exempt and Complying Development Code
- SEPP Planning Systems,
- SEPP Precincts - Western Parkland City 2021,
- SEPP Resilience and Hazards 2021,
- SEPP Resources and Energy 2021,
- Standard Instrument – Principal Local Environmental Plan (LEP).

It is understood that the purpose of the new framework is to support the Consolidation SEPP Program and to streamline planning rules for water catchments, waterways and urban bushland. Changes include the consolidation of SEPP Biodiversity Chapters 8 to 11 into Chapter 6, which is amended to relate to water catchments and matters for consideration.

Amendments to the Standard Instrument – Principal Local Environmental Plan (LEP) and consequential amendments to non-standard LEPs that transfer provisions for canal estate development from Chapter 7 of the SEPP B&C to LEPs is included in the amendments. A new clause protecting public bushland is inserted into all relevant LEPs where this previously applied under Chapter 6 of the SEPP B&C noting that this applied to Penrith LGA. This has allowed Chapter 6 of the SEPP B&C to be repealed. The amendments do not raise any further matters for consideration in the assessment of this proposal.

In addition to the above, a Ministerial Direction under section 9.1 of the EP&A Act 1979 has been issued. At the time of writing (21 November 2021) the Department of Planning and Environment (DPE) has not made the abovementioned legislation available on the NSW ePlanning Portal. Notwithstanding, regard has been had of the amendments and there are no further matters requiring assessment under SEPP Biodiversity and Conservation specifically, noting also that the clearing, stormwater and site establishment works were assessed previously under a separate consent and have been approved. There are no changes to the ultimate stormwater network for the Precinct.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
D4.1. Key Precincts	N/A
D4.2. Building Height	N/A
D4.3. Building Setbacks and Landscape	Complies
D4.4. Building Design	Complies
D4.5. Storage of Materials and Chemicals	N/A
D4.6. Accessing and Servicing the Site	Complies
D4.7. Fencing	Complies
D4.8 Lighting	Complies
E6 Erskine Business Park controls	Does not comply - see Appendix - Development Control Plan Compliance

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

A Planning Agreement made between the Minister (administering the Environmental Planning and Assessment Act 1979) and the Owner (of the site) applies to the land. Such relates to the portion of the site within the 'Erskine Business Park / Ropes Creek Riparian Biodiversity Conservation Area', being specifically limited to the 'C2 – Environmental Conservation' zoned land. The proposal does not involve any works within this portion of the site and therefore it is considered that the proposal is satisfactory in this regard.

Section 4.15(1)(a)(iv) The provisions of the regulations

Prescribed Conditions

Relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia and in relation to shoring and adequacy of adjoining property, have been included within the recommended conditions.

Advertising and Notification

The application was notified in accordance with the requirements of the Regulations and the Penrith City Council Community Engagement Strategy.

Section 4.15(1)(b) The likely impacts of the development

It is considered that the proposal does not provide any adverse unreasonable environmental, social or economic impacts, subject to the recommended conditions of consent.

While it is recommended that associated construction management conditions be imposed, in order to manage potential related impacts.

Section 4.15(1)(c) The suitability of the site for the development

Assessment of the application has found the site to be suitable for the proposed development, subject to the recommended conditions.

Section 4.15(1)(d) Any Submissions

Community Consultation

The application was advertised in a local newspaper, and notified to adjacent property owners and occupiers, from the 7 March 2022 until 21 March 2022, in accordance with the Penrith City Council Community Engagement Strategy. This process resulted in one (1) submission being received, which was from Water NSW. While the submission did not raise any specific objections to the proposal, it recommended specific conditions to be imposed, which have been included within the recommended conditions.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Biodiversity	No objections
Traffic Engineer	No objection subject to conditions

Section 4.15(1)(e)The public interest

The proposed development will not generate any significant issues of public interest.

Conclusion

Having regard to the assessment of the application, the proposed development can be summarised as follows:

1. The site is zoned both 'IN1 – General Industrial' and 'C2 – Environmental Conservation', pursuant to State Environmental Planning Policy (Western Sydney Employment Area) 2009. 'Warehouses or distribution centres' are permitted with consent in the 'IN1 – General Industrial' zone and the proposal does not involve any works within the 'C2 – Environmental Conservation' portion of the site.
2. The proposed development is considered to meet the objectives for both the 'IN1 – General Industrial' and 'C2 – Environmental Conservation' zones.
3. The proposal satisfactorily responds to key planning considerations, such as in relation to urban design, public amenity, built form, traffic, heavy vehicle manoeuvring, car parking, the natural environment and landscaping, subject to the inclusion of the recommended conditions.
4. It is considered that the proposal will not provide for any significant adverse or unreasonable impacts on the neighbourhood.
5. Issues which were raised during the assessment of the application have been adequately addressed.

Overall, assessment of the proposal has found the proposed development to be acceptable and accordingly it is recommended that the application be approved, subject to the recommended conditions.

Recommendation

1. That Development Application No. 22/0131, be approved subject to the following recommended conditions.
2. That pursuant to Section 2.122 (5) of State Environmental Planning Policy (Transport and Infrastructure) 2021, a copy of the determination be forwarded to Transport for NSW.
3. That the submitter be notified of the determination.

CONDITIONS

General

- 1 The development must be implemented substantially in accordance with the following approved plans and documents, the application form, and any supporting information received with the application, except as varied in red or by any conditions within this consent.
 - Estate Plan, Drawing No. 12394_DA002, Issue 11, prepared by Nettleton Tribe, dated 20 October 2022
 - Ground Floor Plan - Lots 2 & 3, Drawing No. 12394_DA012, Issue 7, prepared by Nettleton Tribe, dated 20 October 2022
 - Ground Floor Plan - Lots 4 & 5, Drawing No. 12394_DA013, Issue 6, prepared by Nettleton Tribe, dated 20 October 2022
 - Roof Plan - Lots 2 & 3, Drawing No. 12394_DA016, Issue 6, prepared by Nettleton Tribe, dated 20 October 2022
 - Roof Plan - Lots 4 & 5, Drawing No. 12394_DA017, Issue 6, prepared by Nettleton Tribe, dated 20 October 2022
 - Elevations - Sheet 1, Drawing No. 12394_DA021, Issue 6, prepared by Nettleton Tribe, dated 20 October 2022
 - Elevations - Sheet 2, Drawing No. 12394_DA022, Issue 4, prepared by Nettleton Tribe, dated 20 October 2022
 - Office Elevations - Lots 2, 3 & 4, Drawing No. 12394_DA026, Issue 3, prepared by Nettleton Tribe, dated 20 October 2022
 - Office Elevations - Lot 5, Drawing No. 12394_DA027, Issue 3, prepared by Nettleton Tribe, dated 20 October 2022
 - Office Plans - Lot 2, Drawing No. 12394_DA032, Issue 4, prepared by Nettleton Tribe, dated 20 October 2022
 - Office Plans - Lot 3, Drawing No. 12394_DA033, Issue 3, prepared by Nettleton Tribe, dated 20 October 2022
 - Office Plans - Lot 4, Drawing No. 12394_DA034, Issue 3, prepared by Nettleton Tribe, dated 20 October 2022
 - Office Plans - Lot 5, Drawing No. 12394_DA035, Issue 4, prepared by Nettleton Tribe, dated 20 October 2022
 - Sections - Lots 2 to 5, Drawing No. 12394_DA041, Issue 5, prepared by Nettleton Tribe, dated 20 October 2022
 - Fencing Plan, Drawing No. 12394_DA062, Issue 5, prepared by Nettleton Tribe, dated 20 October 2022
 - Bulk Earthworks Plan, Drawing No. 190050-05-DA2-C04.01, Revision 1, prepared by Enspire Solutions, dated 20 October 2022

2 **Prior to the issue of any Construction Certificate**, the Landscape Plan (prepared by Cabbage Tree Landscape, Project No. 20210619, Issue DA_03D, Revision 10, dated 21 October 2022), submitted in support of the Development Application, is to be amended to incorporate the following and approved by the Landscape Architectural Supervisor, Penrith City Council:

- Provision of additional street trees along the Lockwood Road frontage of the development site, to provide for trees at increments of approximately 10m.
- Provision of street trees along the full Compass Drive site frontage, utilising a Bottlebrush species (or similar suitable species), at increments of approximately 8m.
- Blending the planting species allocation which are provided within the northern and eastern landscaped areas (i.e. rather than providing 2 distinctly varied landscaped type areas).
- The positioning of tree and shrub plantings are to consider the mature canopy cover / growth.
- A minimum of 40% tree canopy cover is to be provided over the total combined area of all car parking spaces and associated driveway areas.
- Indicates that landscaped blister islands are spaced no further apart than 1 island per 10 car parking spaces, and that all islands are a minimum of 1.5m wide (internal) and contain a tree.
- Where tree roots are expected to grow beneath car parking / driveway or vehicle manoeuvring areas, engineered tree pits or vaults and aeration infrastructure, is to be provided and designed in accordance with design guidance provided in engineering design guidelines, the Penrith Street and Park Tree Management Plan and the Penrith Development Control Plan 2014.
- Trees and woody plants above 200mm high are to be positioned a minimum of 600mm back from the wheel stop, measured from their trunks, and low planting provided in the space between. Reference to 'sandstone spall' is to be deleted from the Landscape Specifications.
- Ground cover plantings are to be provided in areas alongside retaining walls, which are vacant.

3 The following amendment shall be incorporated into the development:

- The existing chain link (galvanised steel type colour) fencing along the Compass Drive frontage, is to be replaced with 2.1m high black palisade type fencing (as proposed along the Lockwood Road frontage).

Prior to the issuing of a Construction Certificate, the approved 'Fencing Plan', is to be amended and provided to the Principal Certifying Authority for approval.

4 Prior to the commencement of building construction works (the subject of this Development Consent), the corresponding bulk earthworks, approved pursuant to Development Consent No. 21/0801, are to be completed and all associated Development Consent conditions fully satisfied.

5 The road construction and adjacent associated works (i.e. footpaths and landscaping), approved pursuant to Development Consent No. 21/0801, are to be fully completed, all associated Development Consent conditions satisfied and an Occupation Certificate obtained for such, prior to the issuing of any Occupation Certificate associated with this Development Consent.

6 A **Construction Certificate** shall be obtained prior to commencement of any building works.

7 For the purposes of Section 4.17(11) of the Act, it is a prescribed condition of this Development Consent, that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of this development consent must, at the person's own expense:

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

- 8 a. Illumination across the site is to be provided in accordance with the requirements of Australian Standard 4282-1997 - Control of the obtrusive effects of outdoor lighting.
- b. LED Lighting is to be used throughout the building.

- 9 The Principal Certifying Authority is to ensure that the four (4) 100kW solar power systems are installed, as shown on the approved Roof Plans (Drawing Nos. 12394_DA016 & 12394_DA017), prior to the issue of any Occupation Certificate.

- 10 A building plan approval must be obtained from Sydney Water Tap, in to ensure that the approved development will not impact Sydney Water infrastructure.

A copy of the building plan approval receipt from Sydney Water Tap in must be obtained prior to works commencing.

Please refer to the web site www.sydneywater.com.au Plumbing, building & developing Sydney Water Tap in, or telephone 13 20 92.

- 11 a. The development must be consistent with Water NSW's 'Guideline for Development Adjacent to the Upper Canal and Warragamba Pipelines' (September 2021).
- b. Prior to practical completion, 1.8m high black powder coated chain link fencing, with 3 rows of barbed wire above, must be installed along the northern edge of the 'Erskine Business Park / Ropes Creek Riparian Biodiversity Conservation Area'.
- c. Access from the development site to the 'Erskine Business Park / Ropes Creek Riparian Biodiversity Conservation Area', is to be secured and access limited to maintenance type purposes.
- d. Appropriate and effective erosion and sediment controls must be designed, installed and maintained for all works in accordance with Landcom's Managing Urban Stormwater – Soils and Construction – Volume 1, 4th Edition 2004 (the 'Blue Book') until disturbed areas are stabilised.
- e. Final design levels the proposal must not result in an increase in overland flow water into the Pipelines corridor of either quantity, quality or velocity. The development must be designed, operated and maintained to ensure post-development flows do not exceed pre- development flows into and through the Pipelines corridor.
- f. Where damage to Water NSW lands has been determined to occur as a result of the project, the applicant must carry out rectification at its expense and to the reasonable requirements of Water NSW.
- g. Entry to the Warragamba Pipelines corridor is prohibited without the written consent of Water NSW.
- h. All incidents that affect or could affect the Warragamba Pipelines corridor shall be reported to Water NSW on the 24 hour Incident Notification Number 1800 061 069 as a matter of urgency.
- 12 In accordance with the requirements of Transport for New South Wales (TfNSW), as are detailed in their letter dated 9 August 2022 (TfNSW Reference: SYD22/00764/01), the Principal Certifying Authority is to ensure that the following conditions are complied with:
- a. **Prior to the issue of the Construction Certificate**, the Construction Traffic Management Plan should be updated with further details and submitted to TfNSW and Council for endorsement and approval.
- b. **Prior to the issue of the Occupation Certificate**, a Green Travel Plan (GTP) should be submitted to TfNSW for review and endorsement.
- 13 A Bushfire Survival Plan is to be formulated for the site, in accordance with the associated provisions of Planning for Bush Fire Protection 2019.

- 14 Prior to occupation of the building (including of any occupancy), separate Development Consent is to be obtained for the use of the specific premises.

Council may require any such Development Application to be supported by a Noise Impact Assessment, which has been prepared by a suitably qualified acoustic consultant. It is noted that a suitably qualified acoustic consultant, means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

- 15 This Development Consent does not provide for any signage (i.e. business identification type signage or advertising signage). Other than for signage which is considered to be 'exempt development', separate Development Consent will need to be obtained prior to the erection of such.

Heritage/Archaeological relics

- 16 If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act 1977, may be required before any further work can be recommenced in that area of the site.

Environmental Matters

- 17 All works that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties, are restricted to the following hours in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

In the event that the work relates to activities inside the building and does not involve external walls or the roof, and does not involve the interim use of equipment that emits offensive noise, then the works are not restricted to the hours stated above. The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all works.

- 18 Construction works shall be carried out in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.
- 19 Dust suppression techniques are to be employed during construction works to reduce any potential nuisances to surrounding properties.
- 20 Mud and soil from vehicular movements to and from the site during construction works, must not be deposited on the road.

21 An appropriately qualified person/s shall:

- Supervise all filling works.
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and submit a review findings report to Council and any Principal Certifying Authority. All fill material documentation is to (at minimum)
 - be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{For the purpose of this condition an appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}

22 All construction waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas are to be fully enclosed when the site is unattended.

23 **Prior to the issue of a Construction Certificate**, a detailed Waste Management Plan is to be prepared in accordance with the provisions of Part C5 of the Penrith Development Control Plan 2014, and be submitted to and approved by the Certifying Authority.

Waste materials associated with the construction phase of the development are to be classified and disposed of at a lawful waste facility, or, if suitable, re-used or recycled. All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 24 Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Penrith City Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works as prescribed in State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 4 Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

- 25 Prior to the issue of the Construction Certificate, a Noise Impact Assessment, which includes details on the type and location of all mechanical plant and equipment associated with the development, is to be provided to Council for consideration and approval.

The Noise Impact Assessment is to be prepared by a suitably qualified acoustic consultant and is to provide suitable data and information to demonstrate compliance with applicable noise criteria. For the purpose of this condition a suitably qualified acoustic consultant, means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member. Should no mechanical plant and equipment is to be installed as part of this Development Application, the above information is not required to be submitted.

BCA Issues

- 26 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/ statement for the building.

Utility Services

- 27 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

- 28 Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

- 29 The provision of all infrastructure associated with the development is to be placed underground.
- 30 Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997:
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

- 31 The provision of water, electricity and gas must comply with Table 7.4a of Planning for Bush Fire Protection 2019.

Construction

- 32 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

33 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and back filling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

34 The fire safety features of the National Construction Code that are applicable to the class of building are to be included in the construction of the building.

Engineering

35 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

36 Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths (as shown on the approved Site Plan) and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures (including temporary construction work zones and tower crane operation)
- e) Provision of street trees (in accordance with the final Landscape Plan, as required by Condition No. 2), prior to the issue of an Occupation Certificate
- f) Provision of street lighting
- g) The placement of hoardings, structures, containers, waste skips, signs etc in the road reserve
- h) Temporary construction access
- i) Temporary ground anchors

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- On completion of any awning over the road reserve, a certificate from a practising structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

37 The stormwater management system shall be provided generally in accordance with the concept plans (submitted in support of the Development Application), prepared by Enspire Solutions Pty. Ltd., Project / Drawing No. 190050-05-DA2-C01.01, Revision 4, dated 22 October 2022.

Engineering plans and supporting calculations for the stormwater management systems, are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy, and that the proposal incorporates the connection of the main roof area to the proposed rainwater tanks, for use on site (including for toilet flushing and irrigation purposes).

- 38 Prior to the issue of any Construction Certificate, the Certifier shall ensure that the foundations of proposed structures adjoining the drainage and/or services easement have been designed clear of the zone of influence.
- 39 a. All vehicle parking spaces, parking aisles and driveways / circulation roads, are to be designed and constructed in accordance with AS2890.1, AS2890.2 and AS2890.6.
b. Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking area, associated with the development are provided in accordance with the approved plans, AS2890.1, AS2890.2 and AS2890.6.
c. The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
d. 245 car parking spaces shall be designed, sealed and line marked, in accordance with the approved plans. Four (4) of these spaces are to be accessible spaces with a shared zone and provision made for (future) electric vehicle charging stations at 13 of these spaces.
e. Wheel stops shall be provided along the front of all car parking spaces, in accordance with AS 2890.1 - Parking Facilities.
f. Each space shall be permanently line marked and maintained free from obstruction at all times. Staff, company and visitors vehicles shall be parked in the spaces provided on the subject premises and not on adjacent footpaths or landscaping areas.
- 40 Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

- 41 Prior to commencement of any works associated with the development, a Traffic Guidance Scheme, including details for pedestrian management, shall be prepared in accordance with AS1742.3 Traffic Control Devices for Works on Roads and the Transport for NSW publication 'Traffic Control at Worksites Technical Manual', and certified by an appropriately accredited Transport for NSW Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

- A copy of the Traffic Guidance Scheme shall accompany the Notice of Commencement to Penrith City Council.
- Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of any Construction Certificate or Subdivision Works Certificate.

- 42 All earthworks shall be undertaken in accordance with AS3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority / Superintendent in consultation with the Principal Certifier.

- 43 Upon completion of all works in the road reserve, all verge areas fronting the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.
- 44 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 45 Prior to the issue of an Occupation Certificate, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

An original set of works-as-executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

- 46 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority, shall ensure that the stormwater management system (including water sensitive urban design measures):
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to been undertaken have been satisfactorily completed.

Details of the approved and constructed system/s, shall be provided as part of the works-as-executed drawings.

- 47 Prior to the issue of an Occupation Certificate a restriction as to user and positive covenant relating to the stormwater management systems (including water sensitive urban design measures) shall be registered on the title of the property. The restriction as to user and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Development – Appendix F

- 48 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measures.
- 49 Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the retaining wall supporting the public road known as Compass Drive, shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be a modified version of Penrith City Council's standard wording, as detailed in Council's Stormwater Specification for Building Developments - Appendix F.
- 50 The Applicant shall grant an easement for support to Penrith City Council for the retaining wall that supports the public road known as Compass Drive and on the basis that no claim for compensation will be made, and that the Applicant will meet all associated survey and legal costs.

Landscaping

- 51 All landscape works are to be completed in accordance with the stamped approved Landscape Plan.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

- 52 All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

- 53 On completion of the landscape works associated with the development and prior to the issue of any Occupation Certificate for the development, a Landscape Implementation Report, must be prepared by a suitably qualified and experienced landscape professional, attesting to the satisfactory completion of the landscaping works for the development (in accordance with the Final Landscape Plan, as required by Condition No. 2).

A copy of the Landscape Implementation Report is to be provided to the Principal Certifying Authority and to the Senior Development Assessment Planner, Penrith City Council, prior to the issue of any Occupation Certificate.

- 54 All fencing works are to be completed in accordance with the final Fencing Plan (as required by Condition No. 3), prior to the issue of an Occupation Certificate.

Development Contributions

- 55 This condition is imposed in accordance with the Penrith City Section 7.12 Citywide Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$441,650 is to be paid to Penrith City Council, prior to a Construction Certificate being issued for this development. If not paid within the current quarterly period, this contribution will be reviewed at the time of payment.

The Section 7.12 Development Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Certification

- 56 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
 - (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifier shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction works are to commence on site, the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

Part C6 Landscape Design

The following key matters are noted in relation to the proposal:

- The application has been supported by a detailed Landscape Plan, which has been prepared by a suitably qualified consultant.
- The proposed palette of trees compliment the scale of the development, and comprise of a mix of indigenous, other native and exotic species, and is considered to satisfy the associated provisions of Part C6.1.2.
- While the overall landscaping scheme includes the provision of large tree species, assessment of such by Council's Landscape Architectural Supervisor has found that the positioning of tree and shrub plantings, does not appear to have considered the mature growth of such. In order to maximise the future landscape screening of the overall development, it recommended that a condition be imposed requiring the Landscape Plan to be refined in this regard.
- The proposal does not include the provision of any street trees along the Compass Drive frontage and it is considered that insufficient street trees are proposed along the Lockwood Road frontage. Accordingly, it recommended that a condition be imposed requiring associated amendments to the landscaping scheme.
- It is unclear whether the landscaping scheme, provides for a minimum of 40% tree canopy cover over car parking spaces and associated driveway areas (as required by the recently introduced 'Urban Heat Management' requirements of Part C14 of the Penrith Development Control Plan 2014). Accordingly, it is recommended that a condition be imposed requiring the provision of details demonstrating compliance with such.
- A condition has been included within the recommended conditions requiring the provision of a Landscape Implementation Report, as required by Part C6.1.1.

Part C10 Transport Access and Parking

The following key matters are noted in relation to the proposal:

- A condition has been included within the recommended conditions requiring all car parking areas being provided in accordance with the relevant provisions of AS 2890 and AS 1428.
- Warehouses or distribution centres, including ancillary offices, are required to provide 1 car parking space per 100 sqm (of gross floor area). The proposal involves a total of 48,355 sqm of floor space, which equates to a requirement of 484 car parking spaces. The overall layout provides 245 car parking spaces, which does not satisfy the minimum requirements. While the proposal is substantially non-compliant, given the nature and scale of the proposal, and that assessment of the proposal by Council's Senior Traffic Engineer and Transport for NSW raised no objection to the proposal, it is considered that such is appropriate in this instance.
- Warehouses or distribution centres, including ancillary offices, are required to provide 1 car parking space per 100 sqm (of gross floor area). The proposal involves a total of 48,355 sqm of floor space, which equates to a requirement of 484 car parking spaces. The overall layout provides 245 car parking spaces, which does not satisfy the minimum requirements. The Applicant has provided the following items of justification, in relation to the non-compliance:

This level of on-site parking provision is considered to be extremely excessive given the nature of the proposed development, and the approved level of on-site parking provision at other similar recently approved development in proximity to the subject site.

Technological advances in recent years have further reduced employee densities within

warehouse developments.

Furthermore, it is noted that the requirements provided for by the Precinct Plan for the Oakdale South Industrial Estate and the Mamre Road Precinct Development Control Plan 2021, are much lower for warehouse type developments (circa 1 space per 300 sqm of warehouse space and 1 space per 40 sqm of ancillary office space gross floor area), and the proposal would satisfy such rates.

Overall, it is considered, given the aforementioned items of justification, the requirements applying to nearby like sites, that assessment of the proposal by Council's Senior Traffic Engineer and Transport for NSW raised no objection to the proposal, and the nature and scale of the proposal, it is considered that that such is satisfactory in this instance.

- Bicycle facilities are provided in accordance with the associated requirements of Part C10.7. Furthermore a condition has been included within the recommended conditions requiring the bicycle parking facilities being provided in accordance with the relevant provisions of AS 2890.3.

E6 Erskine Business Park

The following key matters are noted in relation to the proposal:

- The building has a maximum height of approximately 17.1m, which exceeds the (15m) maximum building height requirements of Part E6.3.1. While the proposal is non-compliant with the associated building height requirements, given that such is limited to a relatively small portion of the building (in the front section of the building, where the site falls away, and being associated with the roof pitch / ridge), the extent of building articulation provided within the front portion of the building and the level of screen planting / tress to be provided within the associated setback area, it is considered that such is acceptable in this instance.
- The building is sited on a relatively flat portion of the site and it is considered that the proposal is consistent with the associated requirements of Part E6.3.1.
- The proposal provides for a site coverage of approximately 48%, which satisfies the (50%) maximum site coverage requirements of Part E6.3.2.
- The proposal provides a minimum 15m building setbacks to both Lockwood Road and Compass Drive, which is consistent with the minimum street frontage requirements of Part E6.3.2.
- The proposal provides a building setback (including for the associated awning) to the alignment of the associated approved road (pursuant to Development Consent No. 21/0801) of approximately 17.5m, which is consistent with the minimum street frontage requirements of Part E6.3.2.
- The proposal provides a minimum building setback of approximately 10m to the 'C2 – Environmental Conservation' zoned land (being part of the 'Erskine Business Park / Ropes Creek Riparian Biodiversity Conservation Area') and approximately 45m to the southern boundary, which is consistent with the requirements of Part E6.3.2.
- The overall design includes elements of significant architectural merit, articulated and varied walls, vertical projections (which shall reduce apparent height and scale) and earthy tones. Furthermore, the layout avoids the western aspect of the site, provides perimeter tree planting (which will create shade and landscape screening) and does not substantially impede solar access to surrounding land / development. Accordingly it is considered that the proposal is consistent with the requirements of Part E6.3.4.
- The proposal does not involve any signage.
- A condition has been included within the recommended conditions requiring lighting being provided in accordance with the relevant Australian Standard.
- The proposal involves the provision of black palisade fencing along the Lockwood Road frontage and black coated chain link fencing along the frontage of the approved road (pursuant to Development Consent No. 21/0801). The proposed fencing is positioned to

blend in with the associated landscape screening and overall it is considered that such is consistent with the requirements of Part E6.3.7.

- The proposal seeks to retain existing chain link (galvanised steel type colour) fencing along the Compass Drive frontage. In order to provide an improved streetscape outcome, it is recommended that a condition be imposed requiring the provision of black palisade fencing along the Compass Drive frontage (as proposed along the Lockwood Road frontage).
- Condition have been included within the recommended conditions requiring satisfactory arrangements being made with associated providers, as required by Part E6.3.8.
- The proposal does not provide any works within any electricity transmission line easement and accordingly the proposal is consistent with the requirements of Part E6.3.9.
- The proposal does not involve the use of the building (or any occupancy) and such will be subject to a separate subsequent Development Application.
- The proposal includes areas on the roof for solar panels, makes provision for the (future) installation of electric vehicle charging, rainwater harvesting (including use for toilet flushing and irrigation) and LED lighting. Accordingly it is considered that the proposal is consistent with the requirements of Part E6.4.4.
- The overall layout provides opportunities for waste and recycling facilities to be appropriately located within (the building) each of the occupancies, and associated on-site maneuvering for waste vehicles. Furthermore, it is noted that consideration has been given to the (Water Management) provisions of Part C5.
- The proposed stormwater management arrangements provides for the draining of the site eastwards, to Ropes Creek via an existing detention basin facility (which services the a sub-catchment which includes the overall site). Overall it is considered that the proposal is consistent with the requirements of Part E6.5.3.
- The layout provide for safe and efficient traffic movement, accommodates heavy vehicle manoeuvring and loading areas, enables semi-trailers to perform a 3-point on the site without interfering with car parking spaces, buildings or landscaped areas, separates and avoid conflict between light (i.e. staff / visitor) and heavy vehicular movements, allow all vehicles to enter and leave the site in a forward direction, and provides practical and safe use of the adjacent road system. Furthermore, assessment of the proposal by Council's Senior Traffic Engineer and Transport for NSW, raised no objection to the proposal (subject to conditions, which have been included within the recommended conditions). Accordingly, it is considered that the proposal is consistent with the relevant controls of Part E6.6.
- The proposal does not involve any works within the portion of the site zoned 'E2 - Environmental Conservation' (being part of the Erskine Business Park / Ropes Creek Riparian Biodiversity Conservation Area) or any tree removal. Accordingly the proposal is consistent with the requirements of Parts E6.7 & E6.8.
- The proposal includes a substantial landscaping scheme, which includes a mix of super-advanced, advanced and nursery stock, which are to be positioned to provide opportunities for interlocking canopy, and provide for the screening of the proposed building and hardstand areas. Furthermore, the proposed landscaping scheme includes a mixture of plant and species types, which shall result in a mix of medium and large canopy trees, that are unlikely to provide for root conflict with existing and associated infrastructure, and reduce localised heat island effects. Accordingly, it is considered that, subject to the inclusion of the recommended associated conditions, the proposal is consistent with the provisions of Part E6.9.2.
- The proposed paved and retaining wall elements, complement the architectural style of the associated building and of a subtle finish, while comprising of materials which could be sourced locally. Accordingly, it is considered that the proposal is consistent with the provisions of Part E6.9.3.
- A condition has been included within the recommended conditions requiring all associated

landscaping works to be completed prior to the issuing of an Occupation Certificate, which shall provide for compliance with the requirements of Part E6.9.4.