

SWCPP Ref. No.:	PPSSWC-253
DA No.:	DA22/0546
PROPOSED DEVELOPMENT:	Construction and Operation of a Warehouse (5A & B) and Distribution Centre, Signage and Associated Landscape and Civil Works and 2 Lot Torrens Title Subdivision
PROPERTY ADDRESS:	2 Cuprum Close, KEMPS CREEK NSW 2178
PROPERTY DESCRIPTION:	Lot 111 DP 1262310,
ZONING:	
CLASS OF BUILDING:	Class 7b , Class 5
ASSESSING OFFICER	Jacqueline Klincke
APPLICANT:	Goodman Property Services (Aust) Pty Ltd
DATE RECEIVED:	15 June 2022
REPORT BY:	Jacqueline Klincke, Development Assessment Planner, Penrith City Council
RECOMMENDATIONS:	Approve

Assessment Report

Executive Summary

Council is in receipt of a development application from Goodman Property Services Pty Ltd) for the construction of 2 warehouses (Warehouses 5B and 5A) and their fit-out and use as '*warehouse and distribution centres*', including associated offices, loading docks, parking areas, and stormwater, landscaping works and 24 hour operations, at 2 Cuprum Close, Kemps Creek.

The site, more commonly known as Precinct 5, forms part of the broader industrial precinct known as Oakdale West Estate, which was approved under SSD 7348 (as modified). The proposal complies with the specific requirements of the estate and is consistent with the approved Concept Plan, as approved under SSD 7348 MOD 11, noting the built form of the warehouses within Precinct 5 is not included in the approved development under SSD and is subsequently subject to this separate application.

Under the *State Environmental Planning Policy (Industry and Employment) 2021*, the subject site is zoned IN1 General Industrial and 'warehouse or distribution centres' and 'business identification signs' are permitted with consent.

Key issues identified during the assessment of the application:

- alignment to the Concept Plan approved under SSD 7348 (as modified)
- location of car parking spaces within truck manoeuvrability areas
- internal vehicle manoeuvrability and pedestrian safety
- driveway and vehicle crossover design to the cul-de-sac
- stormwater, drainage management and water sensitive urban design

The applicant was notified of these issues and subsequently, additional information was provided to satisfactorily

address the outstanding matters. It is noted a modification to SSD 7348 (i.e. MOD 11), was lodged to the Department of Planning and Environment (DPE), seeking approval to modify the building layouts and number of warehouses within Precinct 5 (including an amended Concept Plan) in order to align with the layout as proposed under this development application. This modification application was approved by the DPE on 16 December 2022, and subsequently this application can be determined.

The application was referred to Transgrid under Section 2.48 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* due to development carried out adjacent to and along the edge of the adjoining transmission line easement. A response from TransGrid was received on 19 August 2022, granting approval for the works, subject to conditions.

The application was also referred to Transport for NSW (TfNSW) for concurrence under Clause 2.122 of the State Environmental Planning Policy (Transport and Infrastructure) 2021 due to the development being classified as traffic-generating development. A response from TfNSW was received on 12 August 2022 providing comments and advice for Council's consideration in the determination of the application. These comments and Council's consideration and response is discussed further within this report.

In addition, the application was referred to the Department of Planning and Environment (DPE) under Clauses 2.25 and 2.28 of the *State Environmental Planning Policy (Industry and Employment) 2021* due to the site located adjacent to the proposed Southern Link Road, and to confirm satisfactory infrastructure contributions have been provided. It is noted SSD 7348 (as modified) allows for the Southern Link Road and its alignment within the approved Concept Plan, and satisfactory arrangements were made under an executed voluntary planning agreement under SSD 7348, which extends to Precinct 5. In this regard, these clauses are considered to be satisfied.

In accordance with the *Penrith Development Control Plan 2014* and Council's *Community Engagement Strategy 2019*, the application was notified to surrounding properties and publicly exhibited between 11 July and 25 July 2022. No submissions were received in response.

The proposal is identified as '*regionally significant development*' pursuant to Section 2.19 and under Schedule 6(2) of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP), as the Capital Investment Value (CIV) for the development exceeds \$30 million (i.e. \$39,978,000). In this regard, in accordance with Division 2.4 of the *Environmental Planning and Assessment Act 1979*, the Sydney Western City Planning Panel is the consent authority.

An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for approval, subject to recommended conditions of consent.

Site & Surrounds

The subject site is located at 2 Cuprum Close, Kemps Creek, specifically being Precinct 5 which forms part of a broader industrial precinct known as Oakdale West Estate which was approved under a Concept Plan consent no. SSD 7348 by the Department of Planning and Environment (DPE). SSD 7348 has been modified on numerous occasions, with the most recent modification (i.e. SSD 7348 MOD 11) approved by DPE on 16 December 2022 modifying the Concept Plan as seen in Image 1 below:

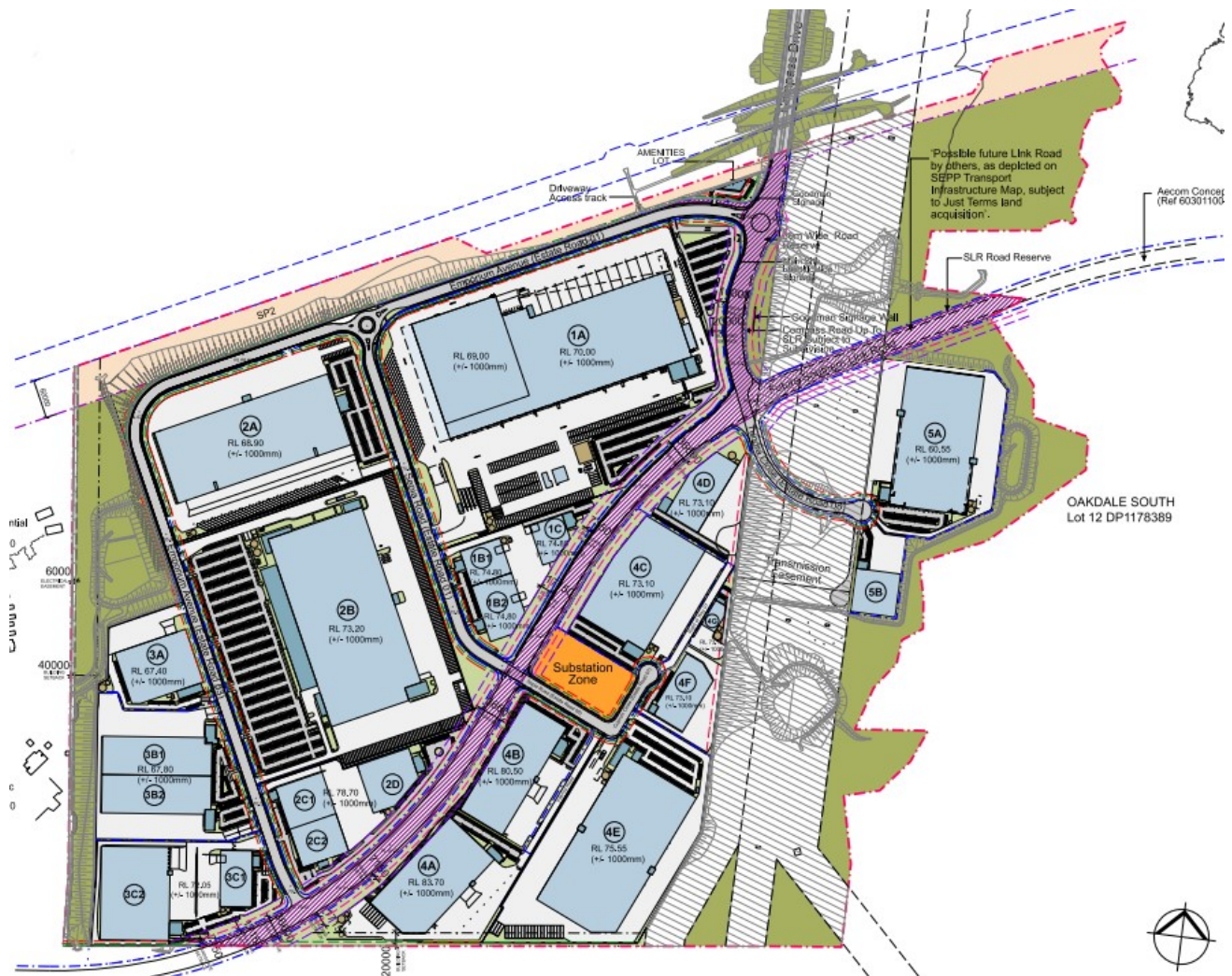


Image 1: Updated and Approved Concept Plan (SSD 7348 MOD 11)

Source: SBA Architects

Precinct 5 is irregular in shape, has a development area of 6.01 hectares and is separated from the remainder of the Oakdale West Estate by a transmission line easement owned by Transgrid. The site is clear of vegetation and is relatively flat, noting vegetation removal, infrastructure installation, bulk earthworks and site benching, and road construction were approved and have been undertaken in accordance with SSD 7348 (as modified). Access to Precinct 5 is provided via Tundra Close (Estate Road 8) at the end of a cul-de-sac, which was approved and has been constructed as part of Stage 1 of SSD 7348. It is noted Tundra Close connects to Compass Drive and will connect to the future Southern Link Road once constructed.

Immediately adjoining the site to the east is a stormwater detention basin (Bio-retention Basin 5), approved and constructed under SSD 7348. Further to the east is the Ropes Crossing riparian corridor which is currently being restored and rehabilitated as part of an approved biodiversity offset area associated with SSD 7348.

The surrounding locality is characterised by a variety of industrial, education, aged care and rural land uses, including:

- Water NSW Sydney Warragamba Pipelines and other existing industrial and warehousing land to the north,
- The Ropes Creek corridor to the east and south,
- Oakdale South Estate to the east,
- The Mamre Road Precinct with future industrial uses to the south, and
- An aged care facility and three schools (i.e. Trinity Primary School, Mamre Anglican School, and Emmaus

Catholic College) to the west.

An aerial image of the Oakdale West Estate, and the subject lot (i.e. Precinct 5) is provided below:



Image 2: Aerial Photograph, dated 21 August 2022

Source: NearMaps

Proposal

The application proposes the construction of 2 separate warehouses (i.e. Warehouse 5A and Warehouse 5B), and includes their fit-out and use as 'warehouse or distribution centres'.

Warehouse 5A comprises of the following:

- Warehouse that is 25,915m² in total floor area, with a maximum height of 13.7m
- Two-storey office space totalling 614m² in total size
- 2 x dock offices measuring 100m² each
- 2 x gate houses measuring 20m² each
- 16 on-grade loading docks and 16 recessed loading docks
- 6 x dock awnings measuring 20m and 3m in width located along the eastern and western elevations of the building
- 107 car parking spaces, inclusive of 3 accessible spaces and 6 electric vehicle charging spaces
- 10 bicycle racks with end of trip facilities
- Separate truck entry/exit points with circulation around the full perimeter of the building
- 4 illuminated tenant signs, 1 illuminated Goodman facade sign
- 24 hour, 7 days a week operation

Warehouse 5B comprises of the following

- Warehouse that is 4,661m² in total floor area, with a maximum ridge height of 13.7m
- Two-storey office space totalling to 400m² in total size
- 3 on-grade loading docks and 2 recessed loading docks located along the northern elevation of the building
- 2 x dock awnings measuring 20m and 3m in width,

- 27 car parking spaces, inclusive of 1 accessible space and 2 electric vehicle charging spaces
- 4 bicycle racks with end of trip facilities
- 2 illuminated tenant signs, 1 illuminated Goodman facade sign
- 24 hours, 7 days a week operation

The proposal also includes:

- The construction of a Fire Brigade Access road the the east of Warehouse 5B
- Stormwater works
- Landscaping works
- 4 illuminated wayfinding pylon signs

The tenants of each warehouse are currently unknown.

It is noted the application, as originally submitted, sought consent for subdivision. However, this component has been removed and subdivision is no longer proposed.

A Site Plan of the proposed development is provided in Image 1 below:

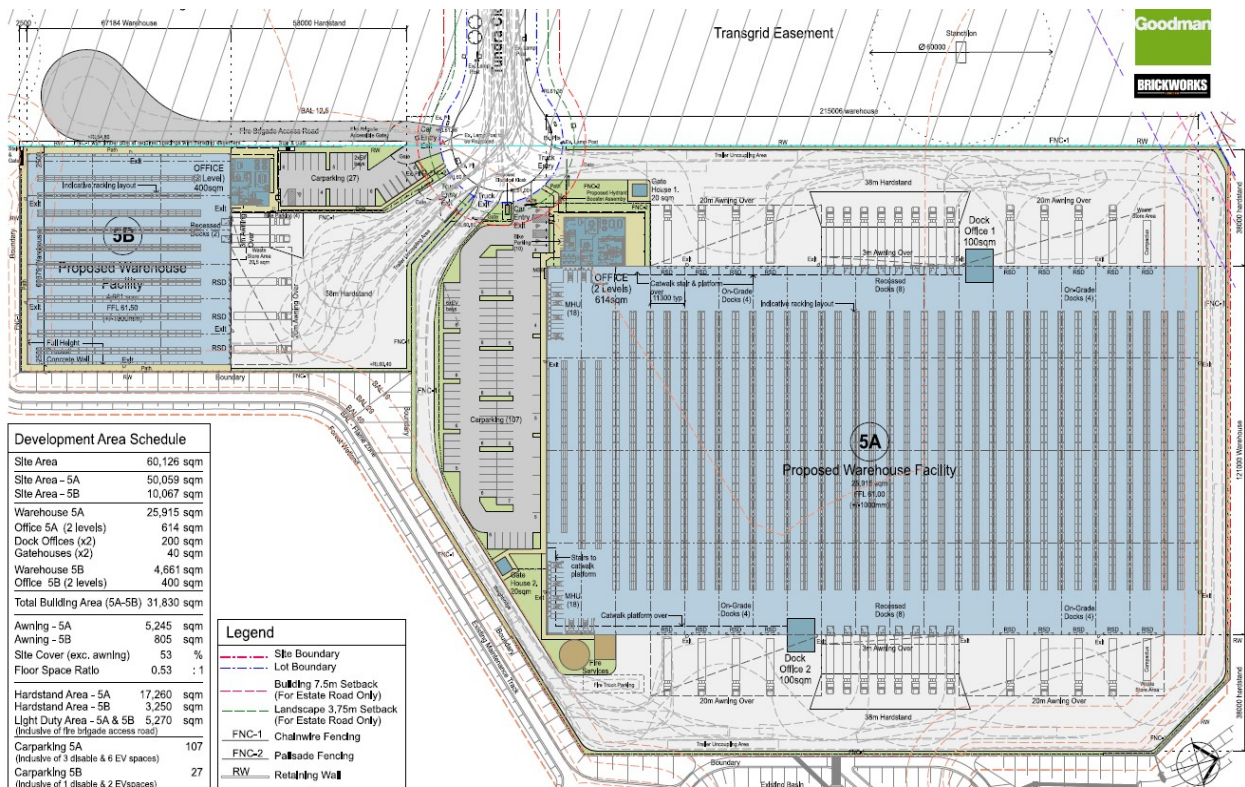


Image 3: Site Plan of Proposed Development

Source: SBA Architects

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

Planning Assessment

- **Section 1.7 - Application of Part 7 of Biodiversity Conservation Act 2016**

The clearing of vegetation over the broader site, including the land specifically relating to the subject proposal, was approved in accordance with State Significant Development Consent No. 7348 (as modified). It is noted SSD 7348 included a biodiversity assessment and offset strategy for the broader Oakdale West Estate.

The land which specifically relates to the subject proposal (i.e. Precinct 5) is void of any noteworthy vegetation and accordingly the proposal will not result in any significant impacts on biodiversity values.

Notwithstanding this, the application was accompanied with a Biodiversity Impact Statement, prepared by ecologique, and confirms that there are no further impacts on biodiversity values as a result of the development.

Therefore, the proposal is satisfactory in this regard.

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

The subject site is identified as bushfire prone land containing Vegetation Category 2 and a narrow band of Category 1 to the southeast of the lot, thereby representing potential grassland hazard which reflects the cleared land of the surrounding area. Subsequently, the application was accompanied by a Bushfire Risk Assessment, prepared by Blackash Bushfire Consulting which assessed the proposed development against the objectives of the Planning for Bush Fire Protection 2019 (PBP). The assessment determined that all four (4) objectives of the PBP will be satisfied and that adequate bushfire protection is provided, subject to the implementation and adherence to the following conditions:

- At the commencement of building works and in perpetuity, Asset Protection Zones (minimum 10m wide) shall be established and maintained as an inner protection area.
- Fire hydrants are to be provided in accordance with the BCA and relevant Australian standards.
- The building is to be constructed in accordance with AS 3959-2009 *Construction of buildings in bushfire-prone areas*.

In this regard, an assessment under Section 4.14 of the Act has been undertaken and the proposal is satisfactory, subject to conditions of consent.

- **Section 4.15 - Evaluation**

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

- **Section 7.12 - Developer Contributions**

Section 7.12 Penrith Citywide Development Contributions for Non-Residential Development are applicable to the subject land and proposal. Accordingly, the following development contribution calculations apply to the proposal:

$$1\% \times \$40,424,846 \text{ (cost of construction works)} = \$404,248.46$$

In this regard, the construction amount of \$399,780 is to be levied. This will be required via a condition of consent.

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 application against relevant criteria with the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* and the application is satisfactory, subject to recommended conditions of consent.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 2 Western Sydney employment area

Clause 2.10 Zone objectives land use table

The subject site is zoned IN1 General Industry under the provisions of the Industry and Employment SEPP and 'warehouse or distribution centres' and 'business identification signs' are permitted with consent.

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:

- 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.

In light of the above, the proposed development is permissible in the zone and consistent with the relevant objectives.

Clause 2.17 Requirements for development control plans

Under SSD 7348, it was determined that a site specific Development Control Plan for the Oakdale West Estate was not required, noting a number of conditions within the state significant development consent provides specific development controls, and Chapter E6 of the Penrith Development Control Plan 2014 applies to the subject site. Therefore, this application has been assessed having regard to these relevant conditions and provisions (as detailed throughout this report).

Clause 2.19 Ecologically sustainable development

The development has been designed with initiatives to achieve a 5-star Green Star rating and includes the installation of roof-mounted solar panels and electric vehicle charging stations. Furthermore, rainwater harvesting (including use for toilet flushing and irrigation) is proposed and LED

lighting will be used throughout the building. The application was also accompanied by a Sustainable Management Plan, prepared by SLR Consulting which outlines a number of further ESD measures to assist in achieving significant reductions in the energy required and improve energy efficiency of the proposed development and its operations.

Clause 2.20 Height of buildings

The site is not subject to a maximum building height adopted under the Industry and Employment SEPP. However, Condition B10 of SSD 7348 (as modified) outlines a maximum building height of 15m. The maximum ridge height for both warehouses is 13.7m and is therefore consistent with the requirements of the condition.

Clause 2.21 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.

Clause 2.23 Development involving subdivision

The application has been amended to remove the subdivision component of the development as originally proposed. This clause therefore no longer applied.

Clause 2.24 Public utility infrastructure

Adequate arrangements for the provision of public utility infrastructure have been provided as part of SSD 7348 (as amended). Notwithstanding this, standard conditions of consent are recommended requiring clearance letters from several utility providers and services including Sydney Water, Integral Energy, and telecommunications including NBN.

Clause 2.25 Development on or in vicinity of proposed transport infrastructure routes

The subject site is located adjacent to a proposed transport infrastructure route, being Southern Link Road. It is noted that SSD 7348 (as modified) allows for the Southern Link Road and its alignment has been based on the designs prepared by AECOM for the NSW Department of Planning and Environment (DPE). Notwithstanding this, the application was subsequently referred to the Department of Planning and Environment. No response was received and accordingly, the application has satisfied the requirements of Clause 2.25.

Clause 2.28 Industrial Release Area - satisfactory arrangement for the provision of regional transport infrastructure and services

The subject site is located within an Industrial Release Area and therefore, the application was referred to DPE. No response was received. However notwithstanding this, satisfactory arrangements were issued under SSD 7348 (as modified) via a voluntary planning agreement (VPA) between Goodman Pty Ltd and the Minister for the Oakdale West Estate, and extends to the subject site. The executed VPA sets out the required satisfactory infrastructure contributions, including the provision of regional infrastructure and services. Accordingly, the application has satisfied Clause 2.28.

Clause 2.30 Design principles

The proposed warehouse is of suitable design and construction standard that will not detract from the

character of the surrounding area and the industrial precinct. The scale, built form appearance will be consistent with expected surrounding development, noting a variety of external materials such as neutral coloured metal cladding, precast concrete panels and glass will be used. It is noted that these materials vary in colour and aid in the articulation of the warehouse.

Suitable setbacks and deep soil landscaping within these setbacks have been achieved and the office components are located in order to provide for an active streetscape presentation. The landscaping around the built form enhances the vegetated character of the site and acts as a visual buffer.

In light of the above, the proposed is considered satisfactory.

Clause 2.40 Earthworks

Major earthworks and site preparation works were approved as part of SSD 7348 (as modified). This subject development application involves minor earthworks which are not considered to result in adverse impacts on the surrounding land.

Clause 2.41 Development on flood prone land

It is noted SSD 7348 (as amended) considered the potential flooding impacts, flood safe access and flood behaviours of post-development flows. It is noted Condition C11 of SSD 7348 requires future development application within the Oakdale West Estate to demonstrate that the design of the warehouses, offices and hardstand areas are consistent with the latest versions of the *Civil, Stormwater and Infrastructure*, and *Flood Impact Assessment* reports to ensure all necessary mitigation measures and pad levels respond to the flood prone nature of the site.

The application was referred to Council's Development Engineering section who raised no objections to the proposal. In this regard, there are no additional adverse flooding impacts envisioned as a result of this proposal.

Clause 2.44 Stormwater, water quality and water sensitive design

The proposal has been referred to both Council's Development Engineering and Waterways Departments which have raised no objections to the proposal considering drainage infrastructure was approved via the SSD approval. The proposed stormwater system will drain into the approved SSD system.

Chapter 3 Advertising and signage

The proposal includes the following signage for Warehouse 5A

- 1 x illuminated Goodman Facade sign
- 4 illuminated tenant signs

The proposal includes the following signage for Warehouse 5B

- 1 x illuminated Goodman Facade sign
- 2 illuminated tenant signs

It is noted 2 x illuminated car wayfinding and 2 x illuminated truck wayfinding signs are also proposed.

Pursuant to Clause 3.6 of the Industry and Employment SEPP, a consent authority must not grant consent to an application to display signage unless the consent authority is satisfied:

- (a) *that the signage is consistent with the aims/objectives of the Policy, and*
- (b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

3.1 Aims, objectives etc

(1) *This Chapter aims—*

(a) *to ensure that signage (including advertising)—*

(i) *is compatible with the desired amenity and visual character of an area, and*

(ii) *provides effective communication in suitable locations, and*

(iii) *is of high-quality design and finish, and*

(b) *to regulate signage (but not content) under Part 4 of the Act, and*

(c) *to provide time-limited consents for the display of certain advertisements, and*

(d) *to regulate the display of advertisements in transport corridors, and*

(e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*

(2) *This Chapter does not regulate the content of signage and does not require consent for a change in the content of signage.*

An assessment of all proposed signs against the assessment criteria outlined in Schedule 1 is provided below:

Assessment Criteria	Response
Character of the area	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Complies. The proposed signage ensures compatibility with the desired character of the area as it will identify two future tenancies within the industrial estate and aids in wayfinding. The design of the signs is compatible with the proposed design of the warehouses reflected in materials and colour schemes.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	
Special areas	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	Complies. The proposal does not detract from any special areas. Precinct 5 is located far from sensitive receivers to the west and south of the OWE. The topography further limits visibility from sensitive receivers. Only one tenancy sign is oriented towards the riparian corridor to the east. This sign will not detract from the amenity or visual quality of the riparian corridor.
Views and vistas	

Does the proposal obscure or compromise important views?	Complies. The proposed signs do not obstruct any views or vistas. No sign protrudes above the maximum building height or compromises an important view.
Does the proposal dominate the skyline and reduce the quality of vistas?	
Does the proposal respect the viewing rights of other advertisers?	
Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Complies. The proposal is consistent with the streetscape, setting and landscape as it will identify the future Buildings 5A and 5B tenants and ancillary parking areas within the approved OWE.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage does not obscure, protrude or create unsightliness. There is no vegetation management associated with the proposed signag
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	
Does the proposal screen unsightliness?	
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	
Does the proposal require ongoing vegetation management?	
Site and building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Complies. The proposed signage is compatible with the characteristics of the site and building as it provides wayfinding for the site and identification signage.
Does the proposal respect important features of the site or building, or both?	The proposed signage scheme, including number of signs per tenant, is similar of that approved for other buildings within the OWE
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	
Associated devices and logos with advertisements and advertising structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Complies. No associated devices proposed. The proposed signage is to be illuminated and will comply with the relevant Australian Standards
Illumination	

Would illumination result in unacceptable glare?	Complies. The proposed illuminated signage will comply with the relevant Australian Standards so as to not result in unacceptable glare, subject to conditions of consent.
Would illumination affect safety for pedestrians, vehicles or aircraft?	
Would illumination detract from the amenity of any residence or other form of accommodation?	
Can the intensity of the illumination be adjusted, if necessary?	
Is the illumination subject to a curfew?	
Safety	
Would the proposal reduce the safety for any public road?	Complies. The proposal does not reduce the safety for any public roads, pedestrians or bicyclists. All signs have been located and designed not to compromise safety.
Would the proposal reduce the safety for pedestrians or bicyclists?	
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	

In light of the above, the proposed signage is considered acceptable.

State Environmental Planning Policy (Planning Systems) 2021

The proposal is identified as '*regionally significant development*' pursuant to Section 2.19 and under Schedule 6(2) of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP), as the Capital Investment Value (CIV) for the development exceeds \$30 million (i.e. \$40,424,846). In this regard, in accordance with Division 2.4 of the *Environmental Planning and Assessment Act 1979*, the Sydney Western City Planning Panel is the consent authority.

It is noted under Schedule 1 of the Planning Systems SEPP, a 'warehouse or distribution centre' at one location with a CIV of \$30 million or more is classed as State Significant Development. Warehouse 5A has a CIV of \$32,799,745 and will be related to a single operation. However, the Oakdale West Estate concept approval; under SSD 7348 states:

b) that pursuant to section 4.37 of the Environmental Planning and Assessment Act 1979, any subsequent development not being for the purpose of a warehouse or distribution centre with a capital investment value in excess of \$50 million is to be determined by the relevant Consent Authority and that development ceases to be State Significant Development.

Accordingly, the proposed development is not declared to be State Significant Development.

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

Chapter 4 Western Sydney Aerotropolis

Section 4.19 Wildlife hazards

The site is located within the '13km Wildlife Buffer Zone' area, however 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.

Section 4.22 Airspace operations

Furthermore, the site is located within the 'Obstacle Limitation Surface' area, however the proposal does not penetrate the identified prescribed air space (i.e. 223.2m and 230.5m) and accordingly no further assessment is required pursuant to Clause 4.22 of State Environmental Planning Policy (Precincts - Western Parkland City) 2021.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 3 Hazardous and offensive development

The proposed development does not seek consent for the storage and/or handling of potentially dangerous or hazardous goods and materials. In this regard, no further assessment under Chapter 9 of the Resilience and Hazards SEPP is required.

Chapter 4 Remediation of Land

Pursuant to Clause 4.6 of the Resilience and Hazards SEPP, development consent must not be granted unless consideration has been given to whether the land is contaminated. Contamination for the Oakdale West Estate (including Precinct 5) was addressed and resolved as part of the Stage 1 development and approved Concept Plan under SSD 7348 whereby the site was assessed to be generally suitable for commercial and industrial purposes. Notwithstanding this, a standard of condition of consent is recommended requiring an unexpected finds protocol. In this regard, the subject site is considered to be suitable for the proposed development.

State Environmental Planning Policy (Transport and Infrastructure) 2021

2.48 Determination of development applications - other development

Section 2.48 of the Transport and Infrastructure SEPP requires consultation with and consideration of responses received from the relevant electricity supply authority (i.e. TransGrid) for development carried out adjacent to an easement for electricity purposes. The subject lot is located adjacent to the TransGrid transmission easement and therefore a referral to TransGrid is required.

It is also noted Conditions C13 and C14 of SSD 7348 (as modified), requires the developer to consult with TransGrid regarding any development on Lot 5 that may impact the TransGrid easement. In this regard, the applicant has submitted documentation demonstrating such consultation has occurred.

A response from TransGrid was received on 19 August 2022 granting approval for the works adjacent and near the transmission line easement, subject to conditions. Adherence to these conditions are ensured via a recommended condition of consent.

2.122 Traffic-generating development

Section 2.121 requires that DAs for certain traffic generating development, as set out in Schedule 3 of the policy, be referred to Transport for NSW (TfNSW) and that any submission from TfNSW be considered prior to the determination of the application. In accordance with the Transport and Infrastructure SEPP, warehouse and distribution development of 8,000m² or greater in size require referral to TfNSW. The DA is therefore required to be referred to TfNSW.

A response from TfNSW was received on 12 August 2022, and the following comments and advice were provided for Council's consideration in the determination of the application:

<u>TfNSW Comment</u>	<u>Council Response</u>
<i>TfNSW advises that the subject property is within an area under investigation for the proposed Southern Link Road Project. Currently the Southern Link Road project is at early concept design stage. The investigations completed to date indicate that the proposed Southern Link Road alignment runs through the subject property. Therefore, the subject property may be indirectly affected by the project. However, the proposal may change, as no decision has been made as to the preferred option and it is not possible at this date to provide any more definite information as to the likely requirement for any part of the property.</i>	Precinct 5 is located adjacent to the proposed Southern Link Road. However, SSD 7348 (as modified) and its Concept Plan has allowed for the Southern Link Road and its alignment has been based on the designs prepared by AECOM. The proposed development is provided with adequate and compliant setbacks.
<i>TfNSW raises concerns with regard to the adopted trip generation rate. The adopted trip generation rate for this development of 1.892 vehicles per day per 100sqm of GFA is considered very low. The various land-use changes within the Western Sydney Employment Area (WSEA) have meant that the current adopted trip generation rate is 2.91, which is much higher than what has been used to assess this development. An assessment based on the lower trip generation rate of 1.892 is likely to have adverse impacts on the network in the future.</i>	Detailed modelling was undertaken as part of the assessment of SSD 7348, and the trip generation rate used in the traffic modelling is consistent with what was adopted for the approved Concept Plan under the state significant development consent. It is also noted that the approved Concept Plan under SSD 7348 (as modified) restricts the gross floor area of development within the estate, including Precinct 5. The total ground floor area of Precinct 5 does not exceed the prescribed limits. In this regard, the development of Precinct 5 is considered to not result in an overall increase in trip generation.

In light of the above, the proposal is considered satisfactory.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
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
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
C14 Urban Heat Management	Does not comply - see Appendix - Development Control Plan Compliance
E6 Erskine Business Park controls	Complies - see Appendix - Development Control Plan Compliance

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

A Voluntary Planning Agreement (VPA) (2017/8367) between Goodman and the Department was entered under Section 7.4 of the *Environmental Planning and Assessment Act 1979* as part of the approval process of SSD 7348 and applies to the subject site.

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.

Owners Consent

A signed letter obtained by the owners consenting to the applicant acting on their behalf for the lodgement of this subject development application has been submitted.

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

The proposed development is generally in accordance with the SSD approved Concept Plan and has adhered to the relevant SSD conditions. The warehouses, offices, loading docks, landscaping, car parks and signage are suitably setback and adheres to the relevant controls within the SSD and Penrith Development Control Plan 2014. In addition, signage has been appropriately located to reduce impacts. The application suitably addresses drainage, fencing, access and separates conflicting activities such as staff/visitor access and loading/unloading facilities.

In light of the above, there are no adverse likely environmental, social or economic impacts envisioned.

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

The site is benefitted by an SSD approval which has provided for roads, drainage, services, noise walls, vegetation removal and planting, and earthworks. The site has been identified for industrial development and the proposal aligns with the SSD Concept Plan under SSD 7348 MOD 11, which has considered impacts to surrounding sensitive receivers. In this regard, the site is considered suitable for the proposed development.

Section 4.15(1)(d) Any Submissions**Community Consultation**

In accordance with Appendix F2 of the *Penrith Development Control Plan 2014* and Council's *Community Participation and Community Engagement Strategy 2019*, the application was notified to surrounding property owners and publicly exhibited between 11 July and 25 July 2022. No submissions were received in response.

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 - subject to conditions
Traffic Engineer	Not supported

Traffic Engineer

The application was referred to Council's Traffic Engineering section who raised concerns regarding the manoeuvrability of cars, trucks and pedestrians and safety within the cul-de-sac and requested greater separation between the truck exit points for both warehouses be provided.

However, given the limitations associated with the existing road geometry and dimensions of the cul-de-sac which was approved under SSD 7348 and has already been constructed, an amendment to the crossover design is not required. It is also noted that the truck vehicle crossings are within close proximity and present as one large layover to ensure the crossovers are perpendicular to the kerb, as per Council's requirements. The relocation/amendment to these crossovers is not possible, noting the limited kerb frontage to Precinct 5 and the provisions of other utilities and services within the verge.

It is acknowledged that there may be some vehicle and pedestrian conflict within the bulb of the cul-de-sac due to the provision of 5 driveways accessing the site from the cul-de-sac. However, it is considered that the current proposal and the proposed location of vehicle crossovers is the most appropriate design option. To minimise any conflict, a condition of consent is recommended ensuring all vehicles (both cars and trucks) enter and exit in a forward direction and that sight-lines for each crossover adheres to the relevant Australian Standards.

It is also noted the the layout and vehicle crossings of Precinct 5 were approved within the most recent Concept Plan under SSD 7348 MOD 11 and this application and proposed development is consistent with the approved Concept Plan.

Section 4.15(1)(e)The public interest

There are no significant issues relating to the public interest envisioned as a result of the proposal, noting the nature and location of the proposed development located within an approved industrial and warehousing precinct.

Conclusion

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

- The site is zoned IN1 - General Industrial pursuant to the *State Environmental Planning Policy (Industry and Employment) 2021* and 'warehouse or distribution centres' are permitted with consent within the IN1 zone.
- The proposed development is considered to meet the objectives of the IN1 zone.
- 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.
- The proposal is consistent with the approved Concept Plan and adheres to the relevant conditions and requirements under SSD 7348 MOD 11.
- It is considered that the proposal will not provide for any significant adverse or unreasonable impacts on the surrounding area.
- Issues which were raised during the assessment of the application have been adequately addressed.

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

Recommendation

That DA22/0546 for the construction and use of a warehouse and distribution centre with ancillary signage, offices, parking, landscaping and stormwater works, at 2 Cuprum Road (Precinct 5), be approved, subject to the following recommended conditions of consent.

CONDITIONS

General

- The development must be implemented substantially in accordance the following stamped approved plans and supporting information received with the application, except as may be amended in red or by the following conditions within this consent:-

Plan No.	Plan Title	Prepared By	Revision	Date
<u>Architectural Plans</u>				
DA00	Cover Sheet	SBA Architects	B	27/10/22
DA05	Perspectives	SBA Architects	B	27/10/22
DA10	Site & Warehouse Plan	SBA Architects	Q	10/11/22
DA31	Roof Plan	SBA Architects	B	27/10/22
DA32	Office 5A & Gate House 01 Floor Plans	SBA Architects	D	10/11/22
DA33	Office Floor Plans - 5B	SBA Architects	B	27/10/22
DA36	Elevations - Warehouse 5A	SBA Architects	B	27/10/22
DA37	Elevations - Warehouse 5B	SBA Architects	B	27/10/22
DA38	Office Elevations - 5A	SBA Architects	C	28/10/22
DA39	Office Elevations 5B	SBA Architects	B	27/10/22
DA40	5A Dock Office & Gatehouse Floor Plan / Elevation	SBA Architects	B	27/10/22
DA50	Signage Plan	SBA Architects	F	27/10/22
<u>Civil Plans</u>				
C7700	Cover Sheet	AT&L	A	4/11/22
C7701	General Notes	AT&L	A	4/11/22
C7705	General Arrangement Plan	AT&L	A	4/11/22
C7710	Typical Sections Sheet 1	AT&L	A	4/11/22
C7711	Typical Sections Sheet 2	AT&L	A	4/11/22
C7712	Typical Sections Sheet 3	AT&L	A	4/11/22
C7715	Bulk Earthworks Plan	AT&L	A	4/11/22
C7720	Siteworks and Stormwater Drainage Plan Sheet 1	AT&L	B	9/12/22
C7721	Siteworks and Stormwater Drainage Plan Sheet 2	AT&L	A	4/11/22

C7722	Siteworks and Stormwater Drainage Plan Sheet 3	AT&L	A	4/11/22
C7723	Siteworks and Stormwater Drainage Plan Sheet 4	AT&L	A	4/11/22
C7724	Siteworks and Stormwater Drainage Plan Sheet 5	AT&L	A	4/11/22
C7730	Pavement Plan	AT&L	A	4/11/22
C7734	Retaining Wall General Arrangement Plan	AT&L	A	4/11/22
C7735	Retaining Wall Profiles Sheet 1	AT&L	A	4/11/22
C7736	Retaining Wall Profiles Sheet 2	AT&L	A	4/11/22
C7740	Erosion and Sediment Control Plan	AT&L	A	4/11/22
C7741	Erosion and Sediment Details	AT&L	A	4/11/22
<u>Landscape Plans</u>				
00	Cover Sheet	scape design	C	8/11/22
01	Landscape Sketch Plan	scape design	C	8/11/22
02	Planting Plan	scape design	C	8/11/22
03	Planting Schedule	scape design	C	8/11/22
04	Character & Materials	scape design	C	8/11/22
105	Landscape - Detailed Plan & Notes	scape design	C	8/11/22
200	Carpark Design	scape design	C	8/11/22
201	Landscape Sections	scape design	C	8/11/22

- Waster Management Plan, prepared by SLR Consulting, version 6, dated 28 October 2022
- BCA Assessment Report, prepared by Blackett Maguire + Goldsmith, dated 31/10/22
- Noise & Vibration Assessment, prepared by RWDI, version D, dated 2/11/22
- Air Quality Report, prepared by SLR Consulting, dated 30/5/22
- Biodiversity Impact Assessment, prepared by ecologique, dated 27/5/22
- Fire Safety Strategy, prepared by Core Engineering Group, dated 28/10/22
- Bushfire Risk Assessment, prepared by BlackAsh Bushfire Consulting, version 1.2, dated 27/10/22
- Transport Assessment, prepared by ason group, issue III, dated 2/11/22
- Sustainability Management Plan, prepared by SLR Consulting, dated May 2022
- Civil Report, prepared by at&l, dated November 2022

- 2 The development is required to comply with the conditions and requirements outlined within the approval letter received from Transgrid, dated 19 August 2022.

- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 The approved operating hours for Warehouse 5A is 24 hours, 7 days a week.

The approved operating hours for Warehouse 5B is 24 hours, 7 days a week.
- 5 The approved use of each tenancy is for Warehouse or Distribution Facilities. No approval is granted for the use of the site as a hazardous or offensive storage establishment or a hazardous or offensive industry, as defined under State Environmental Planning Policy (Resilience and Hazards) 2021.
- 6 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 7 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 8 **A Construction Certificate** shall be obtained prior to commencement of any building works.
- 9 The approved development, the subject of this development consent, is not to contravene the State Significant Development consent 7348 (as modified) or the relevant Planning Agreement. The onus is on the landowner and proponent to ensure that the SSD 7348 (as modified) conditions and Planning Agreement obligations are met.
- 10 **Prior to the issue of an Construction Certificate**, detailed signage plans shall be provided to Penrith City Council for approval. The signage plans shall detail the business identification signage (i.e. tenant signage) and wayfinding pylon signs which is indicative at this stage.
- 11 The installation of the approved signage shall be carried out strictly in accordance with the manufacturer's specifications. Any wiring or installation fixtures associated with the signage or internal illumination shall be contained wholly within the body of the signage and not be visible from the public domain.

- 12 **Prior to the issue of a Construction Certificate**, the relevant construction certificate plans shall demonstrate the installation of a minimum 800 kW solar panel system.

The system shall be operational within 12 months of the issue of any Occupation Certificate.

Written confirmation shall be submitted to the Manager of Development Services at Penrith City Council once the system is installed and operation.

Environmental Matters

- 13 Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.
- 14 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 15 No fill material is to be imported to the site without the prior approval of Penrith City Council. No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

16 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."

17 Where a building is to take place on any land that is to be filled, such filling is to be compacted in accordance with AS3798-1996. Certification is to be submitted to the Principal Certifying Authority by a Geotechnical Engineer verifying that the work has been undertaken prior to the commencement of the construction of any building.

If Penrith City Council is not the Principal Certifying Authority, a copy of the certification is to be submitted to Council for their reference.

18 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.

- 19 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 in accordance with the approved Waste Management Plan.

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

- 20 Noise levels from the premises (including all associated plant and equipment) shall not exceed the relevant noise criteria detailed in the Noise and Vibration Assessment prepared by Wilkinson Murray and dated 28 April 2022 (RWDI # 2102730), and consent SSD-7348-MOD-11. A certificate is to be obtained from a qualified acoustic consultant certifying that the buildings 5A and 5B, (including all associated mechanical plant and ventilation) have been constructed to meet the noise criteria. This certificate is to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate.**

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 21 Prior to the issue of the Construction Certificate, a Construction Environmental Management Plan (CEMP) is to be prepared by a suitably experienced / qualified person and submitted to Penrith City Council. The CEMP is to address the environmental aspects of the construction phase of the development and is to include details on the environmental management practices and controls to be implemented on the site.

All construction activities on the site are to be implemented and carried out in accordance with the CEMP.

BCA Issues

- 22 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 "Design for Access and Mobility". Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

23 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.

Health Matters and OSSM installations

24 Any rainwater tank(s) must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

Utility Services

25 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 Subdivision Certificate.

26 **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.

27 **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.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

28 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.

29 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.

30 Any rainwater tank(s) is to be:

- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
- structurally sound and constructed in accordance with AS/NZS 3500 1.2- 1998: National Plumbing and Drainage - Water Supply - Acceptable Solutions,
- fully enclosed and all openings sealed to prevent access by mosquitoes,
- fitted with a first flush device,
- fitted with a trickle system to top up from mains water,
- provided with an air gap, and
- installed by a licensed plumber in accordance with Sydney Water's "Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003" and the NSW Code of Practice: Plumbing and Drainage.

Additionally, the following are to be provided:

- A back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater - Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

31 Before any rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the Manufacturer's Specifications, and
- Sydney Water and NSW Health requirements.

This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted **prior to the issue of the Occupation Certificate**.

32 The catchment area (for any rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:

- roof catchment areas must be kept clear of overhanging vegetation,
- gutters must have sufficient fall to downpipes to prevent pooling of water,
- overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
- for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
- appropriate measures must be installed to prevent foreign materials from contaminating the water which enters the rainwater tank.

- 33 Any rainwater tank supply must not be connected to drinking and bathing water tap outlets.
- 34 Any rainwater tank pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 35 Construction works or subdivision works that are carried out in accordance with approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- 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.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

Engineering

- 36 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.

37 **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 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) The placement of hoardings, structures, containers, waste skips, signs etc in the road reserve
- f) Temporary construction access
- g) Temporary ground anchors (for basement construction)

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.

38 The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by AT&L, reference number 15-272-C7700 to C7741, revision A, dated 4/11/22 [excluding C7720], and C7720, revision B, dated 9/12/22.

Prior to the issue of any Construction Certificate, the Certifier shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design (WSUD) Policy.

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

39 **Prior to the issue of any Construction Certificate**, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS2890.1, AS2890.2 and AS2890.6.

40 **Prior to the issue of any Construction Certificate**, the Certifier shall ensure that vehicular crossings are perpendicular to the kerb or have the sides equally angled outwards from the property boundary in accordance with the requirements of Council's Driveway Specification, except where necessitated by heavy vehicle turning paths.

41 **Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate**, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Penrith City Council's Asset Management Department for endorsement. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from Transport for NSW. The CTMP shall include details of any required road closures, work zones, loading zones and the like. Approval of the CTMP may require approval of the Local Traffic Committee. Please contact Council's City Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

42 **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.

43 **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.

44 **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.

45 **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 be undertaken have been satisfactorily completed.

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

46 **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.

47 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 measure/s

48 The required sight lines around the driveway entrances and exits shall not be compromised by street trees, landscaping or fencing.

49 Sight distance requirements at verges, footpaths and driveways shall be in accordance with AS 2890.2 Figure 3.3 and Figure 3.4.

50 All vehicles shall enter and leave to site in a forward direction.

Landscaping

51 All landscape works are to be constructed in accordance with the stamped approved plans.

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 Upon completion of the landscape works associated with the development and **prior to the issue of an Occupation Certificate** for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified and experienced landscape professional.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

53 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.

54 No trees are to be removed from within the subdivision without the prior consent of Penrith City Council. Any trees to be removed as part of the engineering work are to be shown on engineering plans submitted for Council's consideration and subsequent approval.

55 All required fencing and retaining walls shall be at the full cost of the property owner/developer. The materials and colours of any new fencing or retaining walls shall match or complement the external materials of the development. Retaining walls are to be of masonry construction.

56 **Prior to the issue of a Construction Certificate**, the Development Application Landscape Drawing Set (*'Landscape Sketch Plan – Lot 5A & 5B'* Revision B' prepared by Scape Design Landscape Architecture dated 10 May 2022) shall be amended to include the species proposed for the areas numbered 13 'Revegetation and tree planting to lot perimeter to mitigate long-range views.

The species proposed are to be native species characteristic of Cumberland Plain Woodland or River-flat Eucalypt Forest. Requirements to manage this area as an Asset Protection Zone will need to be considered in respect to shrub and tree planting densities. The amended Landscape Plan is to be submitted to Penrith City Council's Development Services Manager for review and approval.

- 57 **Prior to issue of a Construction Certificate** all land identified as '13 Revegetation and tree planting to lot perimeter to mitigate long-range view' shown on the amended Landscape Plans (as required by Condition 56) shall be revegetated and planted out with irrigation installed.

Evidence to demonstrate compliance with this task is to be provided by the author of the Landscape Plan or company undertaking the revegetation works is to be submitted to Penrith Councils Environmental Health Team for review and approval.

An inspection of the works may be required by relevant Council's officer(s) to ensure this condition has been satisfied.

Development Contributions

- 58 This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan. Based on the identified cost of the development, a contribution of **\$404,248.46 is to be paid to Council prior to a Construction Certificate** being issued for this development. Council should be contacted prior to payment to verify the contribution payable. The Section 7.12 Contributions Plan is available on Council's website.

Certification

- 59 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/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

- 60 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the development.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C6 Landscape Design

Landscape Plans have been submitted and were prepared in accordance with the requirements of Condition C5 under SSD 7348 (as modified). The landscape plans were discussed with Council's Landscape Architect who confirmed the species of trees are appropriately located within the front setback and car park blister islands. The proposal includes engineered pits and structural soil for trees within the car park to ensure optimal tree growth.

C9 Advertising and Signage

The proposed signage is a desirable type with business identification the dominant trait which is in accordance with the provisions of the DCP and are consistent with the signage approved under SSD 7348 (as modified). The proposed signage has been designed to integrate with the building design and the colours and materials chosen for signage match building materials to provide a cohesive outcome and therefore are suitably sized and located to minimise visual clutter. All signs are wholly contained within the property boundaries and do not excessively protrude from the building.

Proposed illuminated signage will be constructed in accordance with the relevant Australian Standard to ensure that they do not detract from the building during daylight or impact driver sightlines or view. The illumination of the signs is not anticipated to be any adverse impacts to sensitive receivers, noting the nearest residential receiver is located greater than 800m to the south and the topography of the land further limits visibility. Only one tenancy sign is oriented towards the riparian corridor to the east. This sign will not detract from the amenity or visual quality of the riparian corridor

It is noted that the details for the business identification signs are yet to be nominated. In this regard, recommended conditions of consent will ensure signage details are provided at a later date once finalised.

In light of the above, the proposed signage is considered acceptable.

C10 Transport, Access and Parking

The provisions of the SSD approval require the following parking rates:

- 1 space per 300m² of warehouse GFA
- 1 space per 40m² of office GFA
- 2 spaces for disability parking for every 100 car parking spaces

In this regard, Warehouse 5A requires a total of 102 car parking spaces and 2 accessible spaces. A total of 105 car parking spaces, including 3 accessible spaces are provided and therefore complies.

Warehouse 5B requires 26 car parking spaces. A total of 27 car parking spaces are provided which complies.

C12 Noise and Vibration

Both warehouses propose to operate 24 hours, 7 days a week, and noise limits have been determined for the site under the conditions of consent for SSD 7348 (as modified). The proposal has been designed to comply with these limits, noting SSD 9348 MOD 11 amended Condition B9(e) to allow the operation of forklifts during the night-time period on Precinct 5.

Notwithstanding this, a Noise and Vibration Assessment, prepared by RWDI, accompanied the application, concluding that the operation of Warehouses 5A and 5B is predicted to comply with the relevant operational noise criteria, and the relevant conditions under SSD 7348 (as modified). Council's Environmental Management section reviewed the assessment raised no objections.

C14 Urban Heat Management

Table 2 of Section C14 outlines a minimum of 40% tree canopy coverage must be provided over the total combined area of all car parking spaces within industrial developments. The applicant investigated compliance with the tree canopy coverage requirement and noted it was require an additional 40 trees in 20 additional car park islands, thereby resulting in a loss of at least 12 car parking spaces. If these trees were removed, the proposal would not comply with the minimum car parking spaces required. It is also noted that the Landscape Plans were prepared in accordance with Condition C5 of SSD 7348 (as modified) and the extent of landscaping and tree canopy coverage is consistent with all other developments within the Oakdale West Estate.

Therefore, a variation to the 40% canopy coverage is considered acceptable in this instance and the proposed canopy coverage of 22% is supported.

E6 Erskine Business Park

6.2 Subdivision

Subdivision is not proposed under this application.

6.3.1 Height

As per this section of the DCP, *the maximum height for buildings... shall not exceed 15m*. It is noted Condition B10 of SSD 7348 (as amended) also outlined a maximum height of 15m. The maximum ridge height for both warehouses is 13.7m (excluding solar panels and mechanical plant). In this regard, the proposal complies.

6.3.2 Site Coverage

Under this section, *site coverage shall not exceed 50% (unless otherwise specific below)*. The proposed site coverage is 53% which does not comply.

However, Condition B10 of SSD 7348 (as modified) outlines a maximum site site coverage of 65% which prevails over the DCP controls and therefore, the proposal complies with the provisions of the SSD.

6.3.3 Setbacks

This section outlines the following applicable setback requirements:

- Southern Link Road: 20m
- Estate roads: 7.5m
- Rear and side boundaries: 5m
- Transmission Line Easement 8m

However, these setbacks have since been amended under Condition C10 of SSD 7348 MOD 11 as follows:

- Southern Link Road: 17.15m
- Estate roads: 7.5m
- Rear boundary setbacks within the estate: 5m
- Side boundary setbacks within the estate: 0m

The proposed development is largely compliant with these setback controls prescribed in Condition B10.

6.3.4 Urban Design

The proposal is of a high quality design and utilises high quality materials with a variety of finishes and colours. The warehouses provide for an appropriate streetscape presentation to the cul-de-sac (i.e. Tundra Close) and the overall bulk and scale of the proposal is within keeping of the surrounding character and reflective of similar development within the Oakdale West Estate. The use of vertical elements such as metal cladding and a variety of colours assists in breaking down the visual prominence of the warehouses and ensures there are no blank or unrelieved expanses of wall. The proposed landscaping towards Tundra Close and throughout the car parking areas will assist in screening the loading docks and the warehouses from the public domain and adequate canopy coverage.

6.3.5 Signage and Estate Entrance Walls

This section states '*signage on individual allotments will be required to comply with the provisions of the Advertising and Signage Section of this Plan*'. Refer to the Penrith Development Control Plan 2014 Part C - City-Wide Controls section of this report for further discussion.

6.3.7 Fencing

Palisade fencing is proposed throughout Precinct 5 which is a suitable fencing type and is adequately located behind the proposed landscaping.

6.3.9 Transmission Line Easement

Precinct 5 is located adjacent to the Transmission Line Easement and the proposal includes the construction of a fire brigade access road on the edge of the easement. The application was subsequently referred to TransGrid who approved the proposal, subject to conditions of consent.