

SWCPP Ref. No.:	PPSSWC-289
DA No.:	DA22/1080
PROPOSED DEVELOPMENT:	Construction of a Warehouse Facility with Associated Offices, Access and Hardstand Areas, Car Parking, Civil Works and Landscaping
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:	11 November 2022
REPORT BY:	Robert Walker, Senior Development Assessment Planner, Penrith City Council
RECOMMENDATIONS:	Refuse

Assessment Report

Executive Summary

Council is in receipt of Development Application No. 22/1080, which seeks Development Consent for the construction of a warehouse facility, with associated offices, access, hardstand areas, parking, civil works and landscaping, at No. 68 Lockwood Road, Erskine Park.

The overall lot consists of a single allotment, in three (3) portions, dissected by Lockwood Road and Compass Drive, and has a total area of approximately 53.91 hectares. The lot also has frontages to Lenore Drive, and adjoins Ropes Creek and the Water NSW Warragamba Pipelines Corridor. A portion of the lot forms part of the 'Erskine Business Park / Ropes Creek Riparian Biodiversity Conservation Area', which was established following the making of a Planning Agreement between the Minister (administering the Environmental Planning and Assessment Act 1979) and the Owner of the site.

The subject site comprises one (1) of the three (3) aforementioned portions, and has frontages to Lockwood Road, Compass Drive and Lenore Drive. The site is approximately 4.9 hectares in area, is free of any buildings and is devoid of any noteworthy vegetation.

The neighbourhood is characterised by warehouse and industrial developments, forming part of the Erskine Business Park.

The site is zoned 'IN1 – General Industrial', pursuant to Chapter 2 of State Environmental Planning Policy (Industry and Employment) 2021, which applies to the 'Western Sydney Employment Area'. The proposed development is defined as a 'warehouse or distribution centre', which is permitted with consent in the 'IN1 – General Industrial' zone.

The application, was advertised in a local newspaper, and notified to adjacent property owners and occupiers, and

no submissions were received in response to this process.

The Applicant commenced proceedings in the Land and Environment Court, through the making of a 'deemed refusal' appeal on 29 December 2022 and the matter is listed for a 'Section 34 Conciliation Conference' on 18 May 2023.

The application was the subject of a joint Applicant and Council briefing with the Sydney Western City Planning Panel on 13 March 2023, at which the Panel encouraged Council to continue discussions with the Applicant in advance of the 'Section 34 Conciliation Conference', to see whether key design issues raised in the briefing could be resolved. Accordingly, Council issued a letter to the Applicant on 15 March 2023, advising of issues (including in relation to building setback non-compliances) requiring consideration and requested that the Applicant advise whether they intended to directly address the key design issues.

The Applicant provided a response to Council's letter on 23 March 2023. The Applicant's response was accompanied by a revised Site Plan showing a slightly repositioned building location, revised landscaping details associated with the main open car parking area, further use and operational details, and additional material seeking to justify the proposed building setback non-compliances.

The accompanying material was reviewed and found to not sufficiently address the matters raised, including in relation to setbacks and landscaping. Accordingly Council has finalised its assessment based upon the documentation submitted at lodgement.

A detailed assessment of the application has been undertaken and key issues identified, include:

- The proposed setbacks of the building, awning, car parking areas and hardstand areas, to all three (3) street frontages, which do not provide for sufficient landscape screening.
- The inadequate level of articulation and variation to street facing elevations.
- The scale of the development, which provides a layout that is inconsistent with the building setback requirements to all three (3) street frontages and the maximum site coverage requirements, does not provide for an open streetscape with substantial landscaped areas, or for the enhancement of the urban landscape.
- Contribution to urban heat island effects, given the failure to provide shade trees within the open car parking areas or adequate tree canopy cover, and to demonstrate the provision of a sufficient rate of street trees or adequate soil volumes for tree planting areas.
- Incompatibility with the adjoining transport infrastructure routes.
- Ecologically sustainable development matters.
- Stormwater management matters.
- Clarity as to whether an Environmental Impact Statement is required and whether the development constitutes a 'State Significant Development'.

The application has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, and it is recommended that the application be determined (in accordance with Section 4.16), by way of refusing consent.

Site & Surrounds

The overall allotment consists of a single allotment (Lot 102 DP 1268632), commonly known as No. 68 Lockwood Road, Erskine Park. The lot is in three (3) portions, dissected by Lockwood Road and Compass Drive, and has a total area of approximately 53.91 hectares. The lot 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 lot, alongside the southern and eastern boundaries, form part of the Erskine Business Park / Ropes Creek Riparian Biodiversity Conservation Area.

The site of the proposed development, comprises one (1) of the three (3) aforementioned portions of the overall lot

(as is identified in yellow shading in the figure below), and has frontages to Lockwood Road, Compass Drive and Lenore Drive. The site is approximately 4.9 hectares in area, is free of any buildings and is devoid of any noteworthy vegetation.



An easement for underground cables which is 9m wide runs alongside the northern site boundary. It is noted that the beneficiary of the easement (Endeavor Energy) may trim or remove any vegetation from the servient tenement that interferes with or prevents reasonable access to the easement.

The local area is characterised by warehouse and industrial developments, and is known as the Erskine Business Park. It is noted that the lot immediately to the east of the site is currently vacant, however is the subject of a State Significant Development proposal, for the construction and operation of a data centre.

Relevant History

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

- Development Application No. 06/0042, for bulk earthworks, in the western part of the overall lot.
- Development Application No. 06/1646, for the remediation of contaminated areas.
- Development Application No. 19/0818, for bulk earthworks and stormwater works, in the eastern part of the overall lot.

- 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 building.
- Development Application No. 22/0131, for the construction of a four (4) occupancy warehouse building.

Proposal

The application seeks Development Consent for:

- Construction of a warehouse facility, comprising of warehouse areas of 15,419 sqm and 13,550 sqm, which are both serviced by offices (770 sqm and 300 sqm in area) and loading docks.
- A shared awning (38m wide) covering the loading docks and associated manoeuvring areas.
- Car parking areas comprising of a total of 146 spaces, which includes two (2) accessible spaces.
- Associated earthworks and landscaping.

The application does not include the use of the premises, however the accompanying Statement of Environmental Effects outlines that the warehouse facility (and ancillary office spaces), is to be used as warehouses and / or distribution centres, either in a combined manner or as two (2) tenancies, and are to be operated 24 hours a day, seven (7) days a week.

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 4.14 - Bushfire prone land assessment

The site is identified as being 'bushfire prone land', however the application has not been supported by a Bush Fire Assessment Report, which addresses and demonstrates compliance with the relevant criteria of Planning for Bush Fire Protection 2019, as required by Part 1.4 of such.

• 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 apply and are to be levied as part of any approval, pursuant to the Penrith Section 7.12 Citywide Development Contributions Plan for Non-Residential Development, however the application is recommended for refusal.

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Assessment has been undertaken of the proposal (including by Council's Catchment Management Officer and Council's Senior Engineer - Major Developments), against the relevant criteria within Chapter 6 (Water Catchments).

The assessment has found that the application fails to demonstrate that the proposed development will incorporate adequate water reuse.

State Environmental Planning Policy (Industry and Employment) 2021

Pursuant to Section 2.2 of State Environmental Planning Policy (Industry and Employment) 2021, 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').

While the allotment is zoned both 'IN1 – General Industrial' and 'C2 – Environmental Conservation', pursuant to State Environmental Planning Policy (Western Sydney Employment Area) 2009, the proposal (site) is limited to a portion zoned 'IN1 – General Industrial'. 'Warehouses or distribution centres' are permitted with consent in the 'IN1 – General Industrial' zone.

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 overall proposal, is incompatible with the objectives for the 'IN1 – General Industrial' zone, as it fails provide a *high standard of development that does not prejudice the sustainability of other enterprises or the environment*.

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

Assessment against Section 2.17 (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 Section 2.19 (Ecologically Sustainable Development)

The architectural plans do not provide details of all associated commitments made within the accompanying Ecological Sustainable Development Report. Also it is noted that the proposal does not specifically includes the provision of solar panels. Furthermore, a MUSIC Model, demonstrating that the development will achieve sufficient water reuse, has not been provided, as required by the Penrith

Development Control Plan 2014.

Assessment against Section 2.20 (Building Height)

While the site is not located adjacent to any residential areas, it is considered that the building design has given adequate consideration to the topography of the site.

Assessment against Section 2.24 (Public Utility Infrastructure)

Should Development Consent be granted, associated conditions would need to be imposed, to ensure that access to suitable public utility infrastructure is provided to the development. Noting it is recommended that the application be determined by way of refusing consent.

Assessment against Section 2.25 (Development on or in vicinity of proposed transport infrastructure routes)

As the site adjoins 'proposed roads' shown on the Transport and Arterial Road Infrastructure Plan Map, the application was referred to the Secretary of the Department of Planning and Environment. In response, the Department of Planning and Environment advised that they do not support *the proposed variation to the street setback along Lenore Drive, as it can potentially limit the prospects of widening of this transport corridor in the future*. Additionally, the referral comments outline that *the site is capable of providing complying street setbacks without losing a significant portion of available building footprint or compromising the building functionality*.

As outlined elsewhere within the report, the proposed setbacks to all three (3) street frontages are considered to be unsatisfactory, and it is also considered that the overall layout is incompatible with the transport infrastructure routes concerned.

Assessment against Section 2.28 (Satisfactory arrangements for provision of regional transport infrastructure and services)

The application was referred to the Secretary of the Department of Planning and Environment and in response to this referral, the Department of Planning and Environment responded with the issuing of a 'Secretary's Certificate', confirming that satisfactory arrangements are in place for the provision of regional transport infrastructure and services.

Accordingly, the application has satisfied Clause 2.28.

Assessment against Section 2.30 (Design Principles)

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

- The proposal provides street facing elevations, which include expansive elements (including of the proposed awning) that are not adequately articulated or varied, and do not provide a suitable variety of finishes.
- The setbacks of the proposed building, car parking areas and hardstand areas, to each of the street frontages, does not provide for sufficient landscape screening to integrate the development into the existing streetscape.
- The relationship of the development to the intersection of Lenore Drive and Compass Drive, being a significant and signalised intersection, is unsatisfactory from an urban design perspective and overall does not make a positive contribution to the urban environment.

Accordingly, it is considered that the *design principles* of the development are not high quality or compatible with other employment generating development in the precinct, and therefore the proposal is inconsistent with the provisions of Clause 2.30.

Assessment against Section 2.31 (Preservation of Trees or Vegetation)

The proposal does not involve the removal of any trees.

Assessment against Section 2.38 (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 Section 2.38.

Assessment against Section 2.40 (Earthworks)

While the proposed finished levels (including the associated earthworks) align with the existing adjacent ground levels, will not require the importing of fill to the site and provide for a suitable level building pad, concern is raised regarding the 1 in 2.5 gradients of battered areas within the northern setback area, as such may provide structural integrity issues.

Assessment against Section 2.44 (Stormwater, water quality and water sensitive design)

The application has not demonstrated that the development will be adequately drained, including in relation to the failure to provide invert levels for the proposed internal pit and pipe network, the provision of inadequate details in relation to the connection of the proposed stormwater system to the existing trunk drainage network, and failure to provide a Hydraulic Grade Line analysis and a longitudinal section in relation to the drainage line relocation.

State Environmental Planning Policy (Planning Systems) 2021

The Capital Investment Value of the proposed development has been estimated as being \$33,450,000 (exclusive of GST). The accompanying Statement of Environmental Effects (prepared by BBC Consulting Planners, dated November 2022, see page No. 6) outlines, that the warehouse development could when completed be used as a single operation.

Pursuant to Section 2.6 and Schedule 1 (Section 12) of State Environmental Planning Policy (Planning Systems) 2021, development that has a capital investment value of more than \$30 million for the purpose of 'warehouses or distribution centres (including container storage facilities)' at one location and related to the same operation, is declared to be 'State Significant Development'.

Pursuant to Clause 4.12 (8) of the Environmental Planning & Assessment Act 1979, a Development Application for State Significant Development, is to be accompanied by an Environmental Impact Statement, prepared by or on behalf of the Applicant in the form prescribed by the regulations.

An Environmental Impact Statement has not been provided with the Development Application and no application has been made to the Planning Secretary to obtain environmental assessment requirements (SEARs) for the preparation of an Environmental Impact Statement, pursuant to Section 173 of the Environmental Planning & Assessment Regulation 2021.

Notwithstanding the above, pursuant to Section 2.19 and Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021, 'general development' that has a capital investment value of more than \$30 million, is declared to be 'Regionally Significant Development'. Pursuant to Clause 4.5 (b) of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel is the 'Consent Authority', for development declared to be 'Regionally Significant Development'.

Given that the application is not definitive as to whether the facility is to be used in a combined manner or as two (2) tenancies, it is unclear if an Environmental Impact Statement is required or if the development constitutes a 'State Significant Development'.

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

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 and no concerns were raised in this regard.

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 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, it is considered that the such will not adversely affected the operation of the classified road. Accordingly the provisions of Clause 2.119 (2) (a) & (b) have been satisfied.

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 raised no objection and provided conditions for Council's consideration. Accordingly it is considered that the provisions of Clause 2.122 have been satisfied.

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

There are no Draft Environmental Planning Instruments which are relevant to the subject application.

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	Does not comply - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Does not comply - see Appendix - Development Control Plan Compliance
C3 Water Management	Does not comply - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Does not comply - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Does not comply - see Appendix - Development Control Plan Compliance
C12 Noise and Vibration	Does not comply - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
C14 Urban Heat Management	Does not comply - see Appendix - Development Control Plan Compliance
D4.3. Building Setbacks and Landscape	Does not comply - see Appendix - Development Control Plan Compliance
D4.4. Building Design	Does not comply - see Appendix - Development Control Plan Compliance
D4.6. Accessing and Servicing the Site	Does not comply - see Appendix - Development Control Plan Compliance
D4.7. Fencing	Does not comply - see Appendix - Development Control Plan Compliance
E6 Erskine Business Park controls	Does not comply - see Appendix - Development Control Plan Compliance

Section 4.15(1)(a)(iia) 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 allotment 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

Contributions plans for certain areas in Sydney

The Penrith Section 7.12 Citywide Development Contributions Plan for Non-Residential Development applies to the land to which the application relates. Accordingly the subject Development Application can be determined for the purpose of Section 66 of the Environmental Planning & Assessment Regulation 2021.

Prescribed Conditions

Should Development Consent be issued, relevant prescribed conditions of the Regulations, such as the requirement for compliance with the Building Code of Australia, would need to be imposed. Noting it is recommended that the application be determined by way of refusing consent.

Advertising and Notification

The application was advertised and 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

The proposed setbacks (of the building, awning, car parking areas and hardstand areas) to all three (3) street frontages does not provide for sufficient landscape screening, and the inadequate level of articulation and variation within street facing elevations, does not provide a high standard of urban design or an overall development that will contribute to a visually cohesive urban environment.

The scale of the overall development, which provides a layout that is inconsistent with the building setback requirements to all three (3) street frontages and the maximum site coverage requirements, does not provide for an open streetscape with substantial landscaped areas, or for the enhancement of the urban landscape.

The overall layout will contribute to urban heat island effects, given the failure to provide shade trees within the open car parking areas or adequate tree canopy cover. Furthermore in this regard, the application has failed to demonstrate the provision of an sufficient rate of street trees or adequate soil volumes for tree planting areas.

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

The application has failed to demonstrate that site is suitable for the proposed development, for the reasons outlined within this report.

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 5 December 2022 until 19 December 2022, in accordance with the Penrith City Council Community Engagement Strategy. No submissions were received as a result of this process.

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	Not supported
Landscape Architect	Not supported
Environmental - Environmental management	Not supported
Environmental - Waterways	Not supported
Environmental - Biodiversity	No objections
Traffic Engineer	No objection subject to conditions

Section 4.15(1)(e)The public interest

The application fails to demonstrate that the proposal is in the public interest for the reasons outlined within this report.

Conclusion

The application has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and it is recommended that the application be determined (in accordance with Section 4.16), by way of refusing consent.

Recommendation

That Development Application No. 22/1080, be determined in accordance with Section 4.16 of the Environmental Planning and Assessment Act 1979, by way of refusing consent.

CONDITIONS

Refusal

- 1 The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as the proposal is in conflict with Objectives for the 'IN1 – General Industrial' zone, particularly given that the proposal fails to provide a high standard of development that does not prejudice the sustainability of other enterprises or the environment.
- 2 The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as the proposal fails to demonstrate that the development contains measures designed to minimise the consumption of potable water and greenhouse gas emissions, as required by the provisions of Section 2.19 (Ecologically Sustainable Development) of State Environmental Planning Policy (Industry and Employment) 2021.
- 3 The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as the setbacks of the proposed development are incompatible with the immediately adjoining transport infrastructure routes, as required by the provisions of Section 2.25 (Development on or in vicinity of proposed transport infrastructure routes) of State Environmental Planning Policy (Industry and Employment) 2021.
- 4 The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as the development is not of sufficient quality and is incompatible with other employment generating development in the precinct, and therefore the proposal is inconsistent with the provisions of Section 2.30 (Design Principles) of State Environmental Planning Policy (Industry and Employment) 2021.
- 5 The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as the proposal fails to demonstrate appropriate measures to avoid, minimise or mitigate the impacts of the associated earthworks, as required by the provisions of Section 2.40 (Earthworks) of State Environmental Planning Policy (Industry and Employment) 2021.
- 6 The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as the proposal fails to demonstrate that the associated stormwater management system includes all reasonable management actions to avoid adverse impacts, as required by the provisions of Section 2.44 (Stormwater, water quality and water sensitive design) of State Environmental Planning Policy (Industry and Employment) 2021.
- 7 The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as it has not been demonstrated that the proposal will incorporate adequate water reuse, as required by Chapter 6 (Water Catchments) of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

- 8 The Development Application is not satisfactory for the purposes of Section 4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979, as the proposal does not comply with or the application fails to demonstrate compliance with:
- Part C1 (Site Planning and Design Principles),
 - Part C2 (Vegetation Management),
 - Part C3 (Water Management),
 - Part C6 (Landscape Design),
 - Part C10 (Transport, Access and Parking),
 - Part C12 (Noise and Vibration),
 - Part C14 (Urban Heat Management),
 - Part D4 (Industrial Development) and
 - Part E6 (Erskine Business Park)
- of the Penrith Development Control Plan 2014.
- 9 The Development Application is not satisfactory for the purposes of Section 4.14 of the Environmental Planning and Assessment Act 1979, as despite the site being identified as 'bushfire prone land', the application has not been supported by a Bush Fire Assessment Report, which addresses and demonstrates compliance with the relevant criteria of Planning for Bush Fire Protection 2019.
- 10 The application has failed to demonstrate that the proposal is satisfactory for the purpose of Section 4.15 (1) (b) of the Environmental Planning & Assessment Act 1979, in terms of potential and likely impacts, from an urban design and a landscape outcome perspective.
- 11 The Development Application is not satisfactory for the purposes of Section 4.15 (1) (c) of the Environmental Planning & Assessment Act 1979, as the site is not suitable for the proposed development.
- 12 The Development Application is not satisfactory for the purposes of Section 4.15 (1) (e) of the Environmental Planning & Assessment Act 1979, as the proposed development is not in the public interest.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

Part C1 Site Planning and Design Principles

Site planning is used to determine an appropriate development outcome based on the site's constraints and opportunities. The overall design gives minimal consideration to key site planning principles, including in relation to building setbacks, building facade treatment, design quality and overall layout. The overall design, including the proposed setbacks, do not respond to the context of the local area.

Part C2 Vegetation Management

The accompanying Landscape Plan or the design plans do not indicate existing street trees. Accordingly the relationship of the proposed driveway crossings, associated required services and proposed street trees, and the impact of such, upon the existing street trees is unclear.

Part C3 Water Management

The application has not demonstrated that the proposal will incorporate adequate water reuse or be adequately drained.

Deficiencies with the documentation provided with the application include:

- Failure to provide invert levels for the proposed internal pit and pipe network.
- Inadequate details in relation to the connection of the proposed stormwater system to the existing trunk drainage network.
- Failure to provide a Hydraulic Grade Line analysis.
- Failure to provide a longitudinal section in relation to the drainage line relocation.
- Failure to provide a MUSIC Model demonstrating that the development will achieve sufficient water reuse.

Part C6 Landscape Design

Assessment of the proposal from a landscape outcome perspective, including by Council's Landscape Architectural Supervisor, has found such to be unsatisfactory.

It is considered that the overall landscape design would not enhance the amenity and visual quality of the site, or adequately screen the proposed building and awning.

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

- The setbacks of the proposed building, car parking areas and hardstand areas, to each of the street frontages does not provide for sufficient landscape screening.
- The northern edge of the Site (alongside Lenore Drive) is burdened by a 9m wide easement and vegetation within this area may be trimmed or removed at any time by Endeavor Energy.
- The proposed landscaping scheme fails to provide any shade trees within the proposed car parking areas, which is inconsistent with the requirements of Part C6.1.3, whereby one (1) large shade tree is to be provided for every six (6) car spaces.
- The accompanying Landscape Plan does not indicate existing street trees, and does not provide common species names, mature heights or foliage spread, as required by Part F3.4.4.2.
- The Landscape Plan has not been supported by cross sections, which indicate level changes, retaining walls and other structural supports, and depth of planting media, as required by Part F3.4.4.2.

- The positioning of tree and shrub plantings, does not appear to have considered the mature growth of such.

Part C10 Transport Access and Parking

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

- In accordance with Part C10.5.1, 'warehouses including ancillary offices' are to provide 1 car parking space, per 100 sqm of gross floor area.
- The proposal involves a total of (approximately) 29,839 sqm of floor space, which equates to a requirement of 299 car parking spaces.
- The overall layout provides a total of 146 car parking spaces.
- The application has not been supported by comprehensive operating details of the use of the premises.
- Dimensions of the car parking module and driveway access points have not provided, and therefore it cannot be confirmed whether the layout provides for compliance with the relevant standards of AS 2890.
- The configuration of the car parking areas provides a substantial number of spaces where users are required to walk a significant distance to enter the building. The travel path, which is uncovered and along driveway areas, is unsatisfactory from a worker amenity and a pedestrian safety perspective.

Part C12 Noise and Vibration

While the application does not seek approval for any use of the premises, the accompanying Statement of Environmental Effects specifies operational hours of, 24 hours a day, seven (7) days a week. However, no details have been provided in support of these operating hours and therefore consideration of associated environmental impacts (including noise) is unable to be made.

Part C14 Urban Heat Management

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

- In accordance with Part C14.2.1.4, open car parking areas are to be provided with a minimum 40% tree canopy cover.
- The proposed landscaping scheme fails to provide any shade trees within the proposed car parking areas.
- The application fails to demonstrate that the proposed landscaping scheme will provide adequate tree canopy cover, of the open car parking areas.
- In accordance with Part C14.2.1.3, tree plantings are to be provided adequate soil volumes, to ensure their longevity in order to address urban heat island effects.
- The application fails to demonstrate the provision of adequate soil volumes for tree planting areas.
- In accordance with Part C14.2.1.7, street trees are to be provided at a rate of one (1) tree for every 10m of site frontage.
- The accompanying Landscape Plan does not indicate existing street trees and the provision of additional street trees is limited to the Lockwood Road frontage.

D4 Industrial Development

Part D4.3 Building Setbacks and Landscape

The application does not provide details of the finish of hardstand areas, retaining walls or pathways, and therefore it is unclear whether the proposal provides for compliance with the associated requirements of Part D4.3 (C3).

Part D4.4 Building Design

The proposal provides street facing elevations, which include expansive elements (including of the proposed awning) that are not adequately articulated or varied, while also not including a suitable variety of finishes. The overall relationship of the proposed development to the intersection of Lenore Drive and Compass Drive, is considered to be unsatisfactory from an urban design perspective and to not present a building form which is of significant architectural or design merit.

Part D4.6 Accessing and Servicing the Site

Dimensions of the car parking module and driveway access points have not provided, and therefore it cannot not be confirmed whether the layout provides for compliance with the relevant standards of AS 2890.

The configuration of the car parking areas provides a substantial number of spaces where users are required to walk a significant distance to enter the building. The car parking spaces alongside the eastern boundary, require users to walk a significant distance along an open driveway area.

Part D4.7 Fencing

Details in elevations or specifications of the proposed fencing have not provided.

The alignment of the proposed fencing conflicts with proposed landscaping plantings.

E6 Erskine Business Park

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

- The height of the proposed building is approximately 16.6m, which exceeds the maximum building height requirement (of 15m) of Part E6.3.1.
- The proposal provides for a site coverage of approximately 60%, which exceeds the (50%) maximum site coverage requirements of Part E6.3.2.
- The applicable building setback requirements are outlined within Part E6.3.3. The setback requirements applicable to the subject site are 20m to Lenore Drive (known as 'Northern Access Road'), and 15m to Lockwood Road and Compass Drive (being 'Other Road Frontages'). While the submitted architectural plans do not provide dimensioned building setbacks, the proposal extends within each of the aforementioned required setbacks.
- The proposal provides street facing elevations, which include expansive elements (including of the proposed awning) that are not adequately articulated or varied, and do not provide a suitable variety of finishes. Furthermore the overall relationship of the proposed development to the intersection of Lenore Drive and Compass Drive, is considered to be unsatisfactory from an urban design perspective and to not make a positive contribution to the urban environment. Accordingly, it is considered that the proposal does not provide an acceptable urban or architectural design outcome, and is inconsistent with the requirements of Part E6.3.4.
- The alignment of the proposed fencing conflicts with proposed landscaping plantings.
- Details in elevations or specifications of the proposed fencing have not provided.
- The application does not seek approval for any use of the premises, the accompanying Statement of Environmental Effects specifies operational hours of, 24 hours a day, seven (7) days a week. However, no details have been provided in support of these operating hours and therefore consideration of associated environmental impacts (including noise) is unable to be made, including having regard to the provisions of Part E6.4.
- The architectural plans do not provide details of all ecological sustainable development associated commitments and it is considered that the proposal is fails to demonstrate compliance with the requirements of Part E6.4.4.
- The application has not demonstrated that the development will be adequately drained (as required by Part E6.5), including in relation to the failure to provide invert levels for the proposed internal pit and pipe network, the provision of inadequate details in relation to the connection of the proposed stormwater system to the existing trunk drainage network, and failure to provide a Hydraulic Grade Line analysis and a longitudinal section in relation to the drainage line relocation.