

<b>SWCPP Ref. No.:</b>	PPSSWC-299
<b>DA No.:</b>	DA22/1172
<b>PROPOSED DEVELOPMENT:</b>	Construction of a Warehouse Building and Ancillary Works, Signage, Fit out and Use of premises as a Packaging, Warehousing and Distribution Centre, Construction of a Road, and Pathway, Erection of Three (3) Business Identification Signs, and a Two (2) Lot Torrens title Subdivision
<b>PROPERTY ADDRESS:</b>	657 - 767 Mamre Road, KEMPS CREEK NSW 2178
<b>PROPERTY DESCRIPTION:</b>	Lot 1 DP 1271142,
<b>ZONING:</b>	IN1 – General Industrial RE1 – Public Recreation
<b>CLASS OF BUILDING:</b>	Class 7b , Class 5
<b>ASSESSING OFFICER</b>	Robert Walker
<b>APPLICANT:</b>	Altis Frasers JV Pty Ltd
<b>DATE RECEIVED:</b>	9 December 2022
<b>REPORT BY:</b>	Robert Walker, Senior Development Assessment Planner, Penrith City Council
<b>RECOMMENDATIONS:</b>	Approve

## Assessment Report

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### Executive Summary

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Council is in receipt of a Development Application, which seeks Development Consent, for the construction of a warehouse building and ancillary works, signage, fit out and use of premises as a packaging, warehousing and distribution centre, construction of a road and pathway, erection of three (3) business identification type signs, and a two (2) lot Torrens title subdivision, at 657-767 Mamre Road, Kemps Creek, being part the 'Kemps Creek Estate' (which is also known as 'The Yards').

The site is located within the Mamre Road Precinct, and is zoned both 'IN1 – General Industrial' and 'RE1 – Public Recreation', under State Environmental Planning Policy (Industry and Employment) 2021. 'Warehouses or distribution centres' and 'Roads' are permitted with consent in the 'IN1 – General Industrial' zone, and 'Roads' and 'Recreation areas' are permitted with consent in the 'RE1 – Public Recreation' zone.

The application was advertised and notified to nearby property owners, and no submissions were received.

The site is to be serviced by Sydney Water's future Recycled Water Scheme for the Mamre Road Precinct, and Sydney Water's Regional Stormwater Scheme, and therefore the application was referred to Sydney Water for comment. In response to such Sydney Water raised no objection to the

proposed development, subject to conditions and it is recommended that these conditions be imposed as detailed in the attached recommended conditions.

Written notice of the application was given to Transport for NSW, pursuant to the 'Traffic Generating Development' provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021, and no objection was raised. Furthermore, it is noted that Transport for NSW has provided concurrence to the proposed development, pursuant to Clause 2.35 of State Environmental Planning Policy (Industry and Employment) 2021.

The application was also referred to the Secretary of the Department of Planning as required by Clause 2.25 of State Environmental Planning Policy (Industry and Employment) 2021 and the Department of Planning and Environment responded with 'no comments' in this regard.

The Capital Investment Value of the proposed development has been estimated as being \$48,245,906 (exclusive of GST), accordingly pursuant to Section 2.19 and Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021, the proposal is declared to be 'Regionally Significant Development'. Therefore, pursuant to Clause 4.5 (b) of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel is the 'Consent Authority'.

Following initial assessment of the application as originally made and concerns being raised with the Applicant, the application has been amended, and incorporated layout and design changes, including the introduction of a shared (pedestrian and cycle) pathway and provided an increase to the size of the proposed warehouse building.

An assessment of the application (as amended) has been undertaken pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979, and has found that the proposal satisfactorily responds to key planning considerations, including in relation to urban design, scale of development, relationship to adjacent future 'Local Open Space' areas, road infrastructure delivery, sustainability, water recycling and conservation, traffic impacts, heavy vehicle manoeuvring and car parking, landscaping outcomes, visual Impacts, and potential amenity impacts. Furthermore, assessment has found that the proposal suitably aligns with the development currently under construction for the 'Kemps Creek Estate', pursuant to State Significant Development Consent No. 9522 (as has been modified).

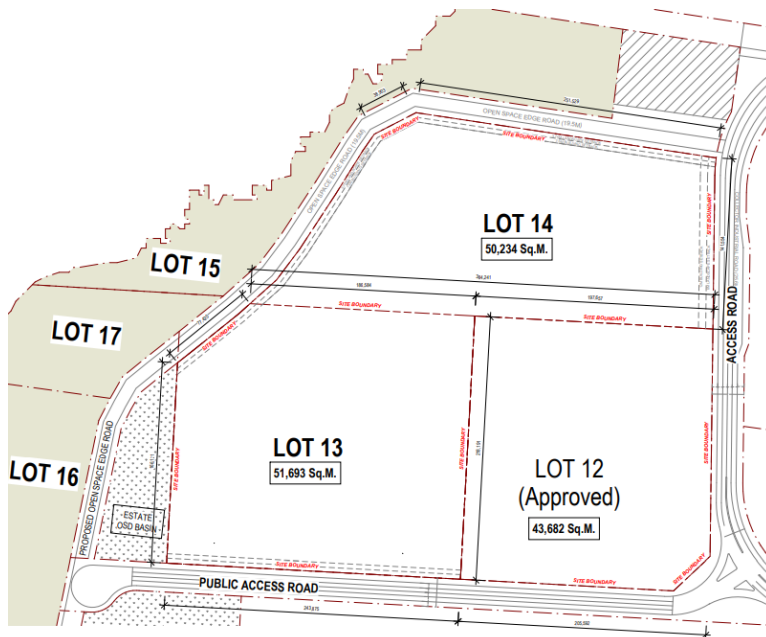
Overall, it is considered that the proposed development is unlikely to result in any unreasonable environmental impacts and is not contrary to the public interest. Having regard to the relevant planning provisions, it is recommended that the application be approved, subject to the attached recommended conditions.

## **Site & Surrounds**

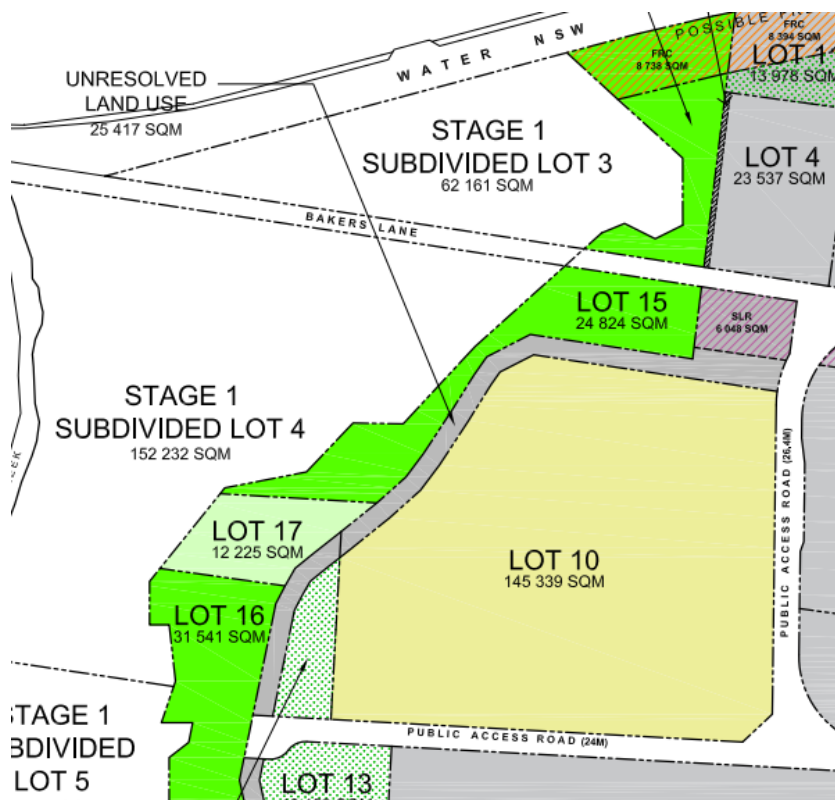
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The subject site is located within an industrial estate, approved pursuant to State Significant Development Consent No. 9522 (SSD-9522), known as the 'Kemps Creek Estate' (which is also known as 'The Yards'). The site comprises of (proposed) Lot 14 in the subdivision approved in accordance with Development Consent DA22/0671, along with surrounding land identified as 'unresolved land use' and the immediately adjacent edge of proposed Lot 15 in the ('Stage 2') subdivision approved in accordance with SSD-9522, at 657-769 Mamre Road, Kemps Creek.

**Figure 1: Subdivision approved in accordance with Development Consent DA22/0671**



**Figure 2: Subdivision approved in accordance with State Significant Development Consent No. 9522**



The site is currently vacant with little vegetation having undergone benching and earthworks, in accordance with SSD-9522. Access to the development site is to be provided, via estate roads and a future intersection with Mamre Road, which is currently under construction, and a further road proposed as part of the subject development (being a portion of the 'Open Space Edge Road').

The site is located immediately to the north of an approved (pursuant to State Significant Development Consent No. 25725029) warehousing and manufacturing development comprising of 27,470 sqm of floor space which is under construction, and also to the north of an approved (pursuant to Development Consent No. DA22/0671) warehouse and distribution facility comprising of 30,566 sqm of floor space.

The broader area is undergoing significant transformation following the rezoning of land within the Mamre Road Precinct, associated with the Western Sydney Employment Area, which allows for warehousing and industrial land uses.

## Proposal

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The application as originally made, proposed the construction of a road (being a portion of the 'Open Space Edge Road') and the construction of a single occupancy warehouse building, with warehouse compartments of approximately 16,290 sqm and 12,400 sqm, and associated office areas approximately 900 sqm, 120 sqm and 58 sqm in area. It is noted that the application was originally made on 9 December 2022 and had a Capital Investment Value estimated as being \$27,747,091 (exclusive of GST).

Following initial assessment of the application (as originally made) and concerns being raised with the Applicant, the application was amended on 19 June 2023. The amendments incorporated layout and design changes, including the introduction of a shared (pedestrian and cycle) pathway and provided an increase to the size of the proposed warehouse building. The Capital Investment Value of the proposed development (as amended) has been estimated as \$48,245,906 (exclusive of GST).

The application (as amended) seeks Development Consent for:

- Construction of a road (being a portion of the 'Open Space Edge Road') and shared (pedestrian and cycle) pathway.
- Construction of a single occupancy warehouse building, with warehouse areas of approximately 20,550 sqm (temperature controlled) and 14,335 sqm, serviced by loading docks, and associated office areas approximately 900 sqm, 120 sqm and 58 sqm in area.
- Awnings (20m, 3m and 20m deep) covering loading dock areas.
- Car parking areas comprising of a total of 250 spaces, which includes three (3) accessible spaces and three (3) spaces with electric vehicle charging stations.
- Associated works, including minor earthworks, landscaping, and fencing.
- Fit out of the warehouse, including packaging machinery and racking within the temperature controlled warehouse area.
- Two (2) freestanding combined business identification and directional signs, which are 2.6m (high) x 900mm (wide).
- A business identification type wall sign (on the eastern elevation) approximately 3m (high) x 3m (wide).
- A wall sign containing the names of the developer / site owners (on the northern elevation).
- Use of the premises, for the packaging, warehousing, and distribution of pharmaceutical and food items, on a 24/7 basis, with up to 270 staff at any one time.
- Torrens Title Subdivision of one (1) lot (being proposed Lot 11 in the subdivision approved in accordance with State Significant Development Consent No. 25725029, being proposed

Lot 10 in the 'Stage 2 Subdivision' approved in accordance with SSD-9522), into two (2) lots. A 51,693 sqm lot (proposed Lot 13) and a 58,655 sqm lot (proposed Lot 14).

## **Plans that apply**

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- 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**

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

The clearing of vegetation over the broader site, including the land specifically related to the subject proposal, was approved in accordance with SSD-9522. The land specifically related to the subject proposal is void of any noteworthy vegetation and accordingly the proposal will not result in any significant impacts on biodiversity values. Therefore, the proposal is satisfactory in this regard.

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

The application was accompanied by a Bushfire Assessment Report (which was prepared by a 'BPAD' / qualified Bushfire Risk Assessment Consultant), outlining that the proposal will comply with Planning for Bushfire Protection 2019, subject to conditions, which have been addressed within the recommended conditions.

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

- **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 and Assessment Act 1979, and having regard to those matters, the following matters have been identified for consideration.

- **Section 7.12 - Developer Contributions**

The Penrith City Council, Section 7.12 Development Contributions Plan for Non-Residential Development, does not apply to the development.

- **Section Western Sydney Aerotropolis Special Infrastructure Contributions Direction**

The site is located within the Western Sydney Aerotropolis Special Infrastructure Contributions (SIC) Area, which was introduced on 25 March 2022, pursuant to Section 7.24 of the Environmental Planning and Assessment Act 1979.

Accordingly, it is recommended that a condition be imposed requiring the Developer to obtain, written evidence from the Department of Planning and Environment, that the Special Infrastructure Contribution for the development has been made or that arrangements are in force with respect to the making of the contribution, in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Direction 2022.

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

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

The site is located within the 'Hawkesbury - Nepean Catchment', which is defined pursuant to Section 6.1 and Schedule 6 as a 'regulated catchment'. Accordingly an assessment has been undertaken of the proposal against the relevant criteria within Part 6.2 Division 2 (i.e. 'water quality and quantity', 'aquatic ecology', 'flooding', 'recreation and public access', and 'total catchment management'), which found the proposal to be satisfactory in relation to such.

It is noted that the site is located within the 'South Creek sub-catchment', which is not identified as being part of the 'Hawkesbury - Nepean Conservation Area sub-catchment' and therefore consideration does not need to be given to the provisions of Section 6.13.

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

Pursuant to Clause 2.2 of State Environmental Planning Policy (Industry and Employment) 2021, Chapter 2 of such applies to land identified on the 'Land Application Map'. The subject site is identified, by the 'Land Application Map' of the Western Sydney Employment Area, as being located within Precinct 12 ('Mamre Road').

The site is zoned both 'IN1 – General Industrial' and 'RE1 – Public Recreation' pursuant to State Environmental Planning Policy (Industry and Employment) 2021.

The development site (which comprises of the proposed warehouse building, awnings, car parking and manoeuvring areas, and signage) is located entirely within the 'IN1 – General Industrial' zoned land. 'Warehouses or distribution centres' and 'Road' 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 childcare facilities) that service or support the needs of employment-generating uses in the zone.

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

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

As small section of the proposed road (including and around the cul-de-sac bulb), along with the (majority of the) proposed shared pathway are located within the 'RE1 – Public Recreation'. 'Roads' and 'Recreation areas' are permitted with consent in the 'RE1 – Public Recreation' zone.

The objectives for the 'RE1 – Public Recreation' zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To provide a transition between industrial development and the Wianamatta-South Creek Precinct.
- To provide land for the development of services and facilities by public authorities for the benefit of the community.

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

Also, it is noted that pursuant to Clause 2.12, that land may be subdivided (but only) with Development Consent.

Consequently, the proposal satisfies the provisions of Part 2.2 of State Environmental Planning Policy (Industry and Employment) 2021.

The following outlines assessment of the proposal in accordance with the remaining relevant provisions of Chapter 2 of State Environmental Planning Policy (Industry and Employment) 2021.

Assessment against Clause 2.17 (Requirement for Development Control Plans)

The Mamre Road Precinct Development Control Plan 2021 was prepared specifically for the 'Mamre Road Precinct' (which includes all of Precinct 12) and the application has been assessed having regard to the relevant provisions (as detailed within this report).

Assessment against Clause 2.19 (Ecologically Sustainable Development)

The application has been accompanied by an Ecologically Sustainable Development Report, which outlines water saving measures and greenhouse gas emission minimising measures. It is recommended that a condition be imposed requiring the measures contained within the report being implemented.

Accordingly, it is considered that the proposal is consistent with the provisions of Clause 2.19.

Assessment against Clause 2.20 (Building Height)

The positioning and design of the proposed building is considered to be appropriate when having regard to the topography of the site, while the (maximum) height of approximately 15m satisfies the applicable (20m) maximum building height requirement of (Part 4.2.1) the Mamre Road Precinct

Development Control Plan 2021. Furthermore, it is noted that the site is not located adjacent to any residential areas.

Accordingly, it is considered that the proposal is consistent with the provisions of Clause 2.20.

Assessment against Clause 2.23 (Subdivision)

The proposed subdivision provides for lots of sufficient size to accommodate employment generating type developments.

Accordingly, it is considered that the proposal is consistent with the provisions of Clause 2.23.

Assessment against Clause 2.24 (Public Utility Infrastructure)

Matters in relation to arrangements for the provision of public utility infrastructure to the broader site, where considered in the assessment of State Significant Development Application No. 9522.

Furthermore, it is recommended that associated conditions be imposed to ensure that the access to suitable public utility infrastructure is provided, which will satisfy the associated provisions of Clause 2.24.

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

While the broader site is dissected by and adjoins 'proposed roads' shown on the Transport and Arterial Road Infrastructure Plan Map, the site of the proposed development is separated from such. Notwithstanding this, the application was referred to the Secretary of the Department of Planning and in response the Department of Planning and Environment responded with 'no comments' in this regard.

Accordingly, the application has satisfied Clause 2.25.

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

The site is located within the Special Infrastructure Contribution Area for the Western Sydney Aerotropolis and therefore this Clause does not apply to the site / proposed development.

Assessment against Clause 2.30 (Design Principles)

The overall layout and built form, is considered to provide a development that is high quality in design. The overall development, including the proposed shared pathway and associated landscaping, incorporates a variety of external materials and finishes, and high quality landscaping (which shall soften the appearance of the building and car parking areas). Furthermore, the scale and character of the proposed development is in keeping with existing adjacent development.

Accordingly, it is considered that the proposal is consistent with the provisions of Clause 2.30.

Assessment against Clause 2.31 (Preservation of Trees or Vegetation)

The proposal does not involve the removal of any trees.

Assessment against Clause 2.34 (Development of land within or adjacent to transport investigation area)

While the broader site comprises of land identified within a 'Transport Investigation Area', the proposal is located in a portion of the site which is free of such.

Assessment against Clause 2.35 (Development within the Mamre Road Precinct)



Transport for NSW has provided concurrence to the proposed development pursuant to Clause 2.35.

Assessment against Clause 2.36 (Development in areas subject to aircraft noise)

While the site is located in the vicinity of flight paths for the Western Sydney Airport, it is identified as having a ANEC of less than 20 and the proposed development is of a type that is unlikely to be adversely affected by aircraft noise.

Accordingly, it is considered that the proposal is consistent with the provisions of Clause 2.36.

Assessment against Clause 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 Clause 2.38.

Assessment against Clause 2.39 (Water recycling and conservation)

The site is to be serviced by Sydney Water's future Recycled Water Scheme (for the Mamre Road Precinct) and Sydney Water's Regional Stormwater Scheme. Therefore (in accordance with Clause 2.39) Development Consent must not be granted unless the consent authority is satisfied, that recycled water from 'the water recycling facility' will be provided to the development as soon as the facility becomes operational.

The application was referred to Sydney Water for comment who confirmed in writing that no objection was raised to the development. This position was subject to conditions being imposed. Such conditions relate to connection (via dual reticulation) to the recycled water network, connection to Sydney Water's Regional Stormwater Scheme and decommissioning of interim on-site rainwater recycling infrastructure (i.e., rainwater tanks) once the recycled water networks are established. At the time of finalising this report for electronic determination, revised recommended conditions of consent from Sydney Water were being pursued that respond to amendments made to the proposal towards the end of the assessment process. Upon receipt of Sydney Water's revised recommended conditions, a further memorandum will be prepared and referred to the Sydney Western City Planning Panel to replace the recommended conditions accompanying this report. It is therefore requested that any determination by the Panel ensure that updated Sydney Water conditions are reflected within the resulting determination of the development application.

Accordingly, it is recommended that conditions be imposed addressing those provided by Sydney Water, which will satisfy the associated provisions of Clause 2.39.

Assessment against Clause 2.40 (Earthworks)

The proposal earthworks align with the overall levels across the broader site, will not require the importing of fill to the broader site and provide for a suitable level building pad.

Overall it is considered that the overall earthworks will not compromise existing drainage patterns, soil stability, the amenity of adjoining land / properties or visual from any nearby waterways. While such are unlikely to disturbing relics, or impact upon any waterway, drinking water catchment or environmentally sensitive area.

It is considered that the proposal is consistent with the provisions of Clause 2.40, subject to conditions being imposed in relation to sediment and erosion control measures.

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

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

Accordingly, it is considered that the proposal is consistent with the provisions of Clause 2.44.

Pursuant to Clause 3.4 of State Environmental Planning Policy (Industry and Employment) 2021, Chapter 3 of such, applies to the proposed pylon signs and the proposed wall sign.

The proposed pylon type signs and the proposed wall sign, are considered to be 'business identification signs' and accordingly an assessment has been undertaken of such against the relevant criteria within Chapter 3, including the 'Assessment Criteria' outlined within Schedule 5 (which is required in accordance with Clause 3.6), as follows.

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?	The proposed pylon signs and the proposed wall sign is compatible with the desired character of the area and with the associated building, while providing effective identification of the premises.
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?	The proposed signs do not detract from any special areas.
Views and vistas	
Does the proposal obscure or compromise important views?	The proposed signs do not obstruct any views or vistas and do not protrude above the associated building.
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?	The proposed signs are consistent with the future desired streetscape and setting / landscape attributes of the area, and do not protrude above the associated building.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	

<p>Does the proposal reduce clutter by rationalising and simplifying existing advertising?</p> <p>Does the proposal screen unsightliness?</p> <p>Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</p> <p>Does the proposal require ongoing vegetation management?</p>	
<b>Site and building</b>	
<p>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?</p> <p>Does the proposal respect important features of the site or building, or both?</p> <p>Does the proposal show innovation and imagination in its relationship to the site or building, or both?</p>	<p>The proposed signs are compatible with the characteristics of the site and the associated building and provide effective communication / wayfinding.</p>
<b>Associated devices and logos with advertisements and advertising structures</b>	
<p>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?</p>	<p>No associated devices are proposed as part of the signage. It is recommended that a condition be imposed requiring any associated lighting to comply with associated Australian Standards and to not compromise the amenity of other premises.</p>
<b>Illumination</b>	
<p>Would illumination result in unacceptable glare?</p> <p>Would illumination affect safety for pedestrians, vehicles, or aircraft?</p> <p>Would illumination detract from the amenity of any residence or other form of accommodation?</p> <p>Can the intensity of the illumination be adjusted, if necessary?</p> <p>Is the illumination subject to a curfew?</p>	<p>The application details that the signage is not to be illuminated.</p>
<b>Safety</b>	
<p>Would the proposal reduce the safety for any public road?</p> <p>Would the proposal reduce the safety for pedestrians or bicyclists?</p>	<p>The proposed signs are of a type and are located as to not compromise the safety of adjacent public spaces.</p>

Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	
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A combined sign containing the names of the developer / site owners, is shown on the northern building elevation. This signage media does not relate to the use of the premises and therefore does not constitute a 'business identification sign'. It also does not constitute a 'building identification sign' and as such the sign is not permitted in the 'IN1 – General Industrial' zone pursuant to State Environmental Planning Policy (Industry and Employment) 2021. Accordingly, it is recommended that a condition be imposed advising that no approval is issued for such and that the stamped approved plans be marked accordingly.

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

The Capital Investment Value of the proposed development has been estimated as being \$48,245,906 (exclusive of GST), accordingly (as such is more than \$30 million and relates to 'general development') pursuant to Section 2.19 and Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021, the proposal is declared to be 'Regionally Significant Development'. Therefore, pursuant to Clause 4.5 (b) of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel is the 'Consent Authority'.

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

While a portion (alongside the western edge) of the broader site is located within the 'Western Sydney Aerotropolis' (in accordance with the Land Application Map for Chapter 4), the proposal is located in the remaining part of the site.

Notwithstanding this, 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.

Furthermore, the site is located within the 'Obstacle Limitation Surface' area, however 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**

The application has been accompanied by a Preliminary Hazard Analysis, indicating the quantities of dangerous goods which may be stored at the premises in conjunction with the proposed warehousing operations. The Preliminary Hazard Analysis indicates that associated quantities exceed relevant thresholds. Accordingly, in accordance with the Hazardous and Offensive Development Application Guidelines – Applying SEPP 33, an assessment of the risks posed has been undertaken, and is detailed within the Preliminary Hazard Analysis.

The Preliminary Hazard Analysis concludes that the risks at the site boundary are not considered to

exceed the acceptable risk criteria, and therefore the facility is classified as 'potentially hazardous' and is permitted within the 'IN1 – General Industrial' zone.

Furthermore, the subject application was referred to Council's Environmental Health Officer, who raised no objection to the proposal, subject to associated conditions being imposed.

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

While contamination issues for the broader site, have previously been considered and resolved, associated with SSD-9522, it is noted that the subject application was accompanied by a Site Suitability Assessment Report, which did not identify any associated concerns. Furthermore, the subject application was referred to Council's Environmental Health Officer, who raised no objection to the proposal, subject to conditions being imposed. Accordingly, it is considered that the proposal is satisfactory having regard to the provisions of Chapter 4 of State Environmental Planning Policy (Resilience and Hazards) 2021.

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

The broader site has frontage to 'Mamre Road', which listed as a 'classified road'. The proposed warehouse development is provided vehicular access from a Local Industrial Road, which is currently under construction pursuant to SSD-9522, and a further road proposed as part of the subject development (being a portion of the 'Open Space Edge Road'). Given this and the overall nature of the development, the proposal will not adversely affect the operation of the classified road. Accordingly, it is considered that the proposal is consistent with the provisions of Clause 2.119 (2) (a) & (b).

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

Given that the proposal involves the construction of a 'warehouse or distribution centre', which comprises of 8,000 sqm (or more) 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. Final comments provided by Transport for NSW raised no concerns with the proposal.

Overall assessment of the proposal, including by Council's Senior Traffic Engineer, has found the proposal to be satisfactory from a traffic perspective, having regard to the efficient movement of people and freight (to and from the site), the extent of multipurpose trips, the potential to minimise the need for travel by car, the potential to maximise movement of freight in containers, and potential traffic safety, road congestion and parking implications. Accordingly, the provisions of Clause 2.122 have been satisfied.

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

There are no Draft Environmental Planning Instruments that are specifically relevant to the subject application

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

### **Mamre Road Precinct DCP 2021**

The subject site is located within the Mamre Road Precinct and accordingly consideration is to be given to the provisions of the Mamre Road Precinct Development Control Plan 2021. The following key matters are noted in relation to the proposal:

#### **Part 2.1 Mamre Road Precinct Structure Plan**

The proposal is substantially consistent with the Mamre Road Precinct Structure Plan, the water cycle management strategy, and the local road network strategy.

#### **Part 2.2 Biodiversity**

State Significant Development Consent No. 9522, provided for bulk earthworks and benching of the broader site. Following the undertaking of these works, the site is vacant and devoid of any noteworthy vegetation. Accordingly, no vegetation clearing is required as part of the proposed development and the proposal is considered to be satisfactory from a biodiversity perspective.

#### **Part 2.4 Integrated Water Cycle Management**

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

Furthermore, it is recommended that a condition be imposed to achieve adequate non-potable water reuse (such as for toilet flushing and irrigation purposes).

#### **Part 2.8 Bushfire Prone Land**

The application was accompanied by a Bushfire Assessment Report (which was prepared by a 'BPAD' / qualified Bushfire Risk Assessment Consultant), outlining that the proposal will comply with Planning for Bushfire Protection 2019, subject to conditions, which have been addressed within the recommended conditions.

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

#### **Part 2.9 Salinity**

A Geotechnical Assessment Report has been provided in support of the proposal, which concludes that the site is suitable for the development for warehousing purposes, and accordingly it is considered that the proposal is consistent with the associated salinity requirements of Part 2.9.

#### **Part 2.10 Contaminated Land**

The application was accompanied by a Site Suitability Assessment Report, which did not identify any land contamination issues. Furthermore, the subject application was referred to Council's Environmental Health Officer, who raised no objection to the proposal, subject to conditions being imposed.

### **Part 2.11 Aviation Safeguarding**

An Aeronautical Impact Assessment Report has been provided in support of the proposal, which identified no likely aviation impacts. Furthermore, given the nature of the proposed development and that the proposal does not penetrate the identified prescribed air space (i.e., the Obstacle Limitation Surface), it is considered that the proposal is consistent with the associated requirements of Part 2.11.

### **Part 2.12 Development Adjacent to the Warragamba Pipelines**

While the broader site adjoins the Warragamba Pipelines, the proposal is located in a portion of the site away from such. Accordingly, no further assessment is required in accordance with the provisions of Part 2.12.

### **Part 2.14 Utilities Services**

The required infrastructure and service needs for the broader site, were considered in the assessment of State Significant Development Application No. 9522. Furthermore, it is recommended that associated conditions be imposed in relation to such, which shall provide for compliance with the associated requirements of Part 2.14.

### **Part 2.15 Transport Investigation Areas**

While the broader site comprises of land identified within a 'Transport Investigation Area', the proposal is located in a portion of the site which is free of such. Accordingly, no further assessment is required in accordance with the provisions of Part 2.15.

### **Part 3.1 Subdivision**

The layout of the proposed subdivision does not provide any conflict with the precinct road network and hierarchy, or the layout provided by the development of the broader site which is under construction pursuant to State Significant Development Consent No. 9522.

Both of the proposed lots are to be afforded suitable access points, for cars and for heavy vehicles (specifically from a Local Industrial Road to the south of Lot 13 and from a Collector Road to the east of Lot 14 which are currently under construction, and from the proposed 'Open Space Edge Road for cars to the southwest of Lot 14).

The lots are 51,693 sqm (proposed Lot 13) and 50,234 sqm (proposed Lot 14) in area, which satisfies the minimum allotments size of 1,000 sqm for land within the 'IN1 - General Industrial'.

### **Part 3.2 Views and Visual Impacts**

A Visual Impact Assessment Report has been provided in support of the proposal, which has concluded that the proposal is likely to only provide minor short term visual impacts. Given this, as well as the nature and the setting of the site, it is considered that the proposal is consistent with the associated requirements of Part 3.2.

### **Part 3.4 Transport Network**

The application has been accompanied by a detailed Traffic and Transport Report, which included an analysis of vehicular traffic matters associated with the proposal, including in relation to the efficiency of the road system, as required by Part 3.4.1 (C1).

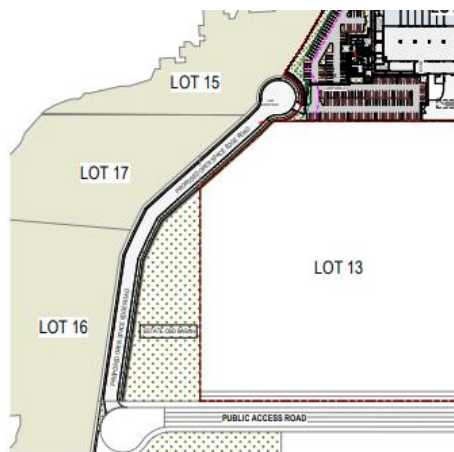
Assessment of the proposal, including by Council's Senior Traffic Engineer found the proposal to be satisfactory from a traffic perspective, and final comments provided by Transport for

NSW raised no concerns. Accordingly, it is considered that the proposal is consistent with the requirements of Part 3.4.1 (C1).

The proposal involves the construction of a road, being a portion of the 'Open Space Edge Road', which forms part of the 'desired road network' for the 'Mamre Road Precinct', as shown below (extract from Figure 12 of the Mamre Road Precinct Development Control Plan 2021).



The proposed road is limited to a section, between a Local Industrial Road that is currently under construction pursuant to SSD-9522, to the southwest corner of the development site, being the vehicular entry point to the main car parking area of the warehouse development, as shown below (extract from the architectural drawings). The proposal also involves the construction of a public 'shared pathway' outside the western and northern perimeter of the development site (in lieu of public road, as shown on the 'desired road network' for the 'Mamre Road Precinct'). This road infrastructure will complete the required local road network as identified and required by the relevant DCP and Precinct Plan.



Accordingly, the proposed arrangement involves variation to Part 3.4.1 (C3) & (C8), whereby development shall be *generally in accordance with the desired road network* and whereby a *public road is to adjoin land zoned 'RE1 – Public Recreation'*.

In relation to such, the Applicant has outlined that conflicts have been identified between desired alignment of the 'Open Space Edge Road', the approved road network approved and under construction pursuant to SSD-9522, and the future Southern Link Road intersection have been identified, including in relation a northbound left turn slip lane from the 'Collector Industrial Road' (along the eastern site frontage of the development site) to the westbound lanes of the Southern Link Road.



In accordance with Part 3.4.1 (C7), variations to the desired road network must demonstrate that such, will *not detrimentally impact on access to adjoining properties* and *will not impede the orderly development of adjoining properties in accordance with the Structure Plan*. It is noted that given the respective section of the 'Open Space Edge Road' is not relied upon for access to any adjoining properties or development site, it is considered that the proposed variation is consistent with such. Moreover, it is considered that the proposed arrangements do not compromise connectivity to open space areas and provides a suitable frontage to open space areas, as required by Part 3.4.1 (C6).

Furthermore, it is noted that in accordance with Part 3.4.1 (C2), *subdivision and development are to consider the coordinated staging and delivery of final road infrastructure throughout the Mamre Road Precinct*. Accordingly in order to ensure delivery of the proposed road and the proposed shared pathway, as part of the development, it is recommended that a condition be imposed requiring completion of such prior to the occupation of the development. Furthermore, it is also recommended that a condition be imposed, requiring the completion of the internal estate roads approved pursuant to State Significant Development Consent No. 9522 (as modified), prior to occupation of the development. This is to ensure that this specific precinct road network is completed to accommodate the traffic volumes generated by this development.

It is noted that the configuration of the proposed road meets the 'preferred road typology' specified in Table 9 for the 'Open Space Edge Road' and that while the documentation provided by the Applicant in relation to the proposed 'shared pathway' contains inconsistencies, it is recommended that associated conditions be imposed to ensure that such is delivered at a width of 3.5m, as required by Part 3.4.3 (10).

Overall, assessment of the proposal, including by Council's Senior Traffic Engineer, Council's Engineering Consultant and Transport for NSW, has found the proposal to be satisfactory from a transport network perspective, including having regard to the provisions of Part 3.4, subject to the associated recommended conditions being imposed.

### **Part 3.5 Council Engineering Works and Construction Standard**

Assessment of the proposal, including by Council's Engineering Consultant, Council's Catchment Management Officer, and Council's Senior Traffic Engineer, found the proposal to be consistent with associated Council standards, subject to associated conditions being imposed.

#### **Part 4.2.1 Building Height**

The building has a maximum height of approximately 15m, which satisfies the 20m maximum building height requirement of Part 4.2.1.

The building has been designed and sited to minimise overshadowing on the public domain and satisfies the associated requirement of Part 4.2.1.

#### **Part 4.2.2 Setbacks**

The proposal provides a minimum front building setback of approximately 14.5m to the 'Collector Road' under construction (along the eastern site frontage), which satisfies the associated minimum 12m front (to a 'Collector Road') building setback requirement of Part 4.2.2 (C1).

The proposal provides a minimum building setback of approximately 40m to the proposed 'Open Space Edge Road' and approximately 8m to the proposed 'shared pathway', which satisfies the associated 7.5m minimum building setback (to a 'Local Estate Road') requirement of Part 4.2.2 (C1).

The proposal provides a minimum building setback (including having regard to the associated awnings) of approximately 17m to the side (southern site) boundary, which satisfies the associated 5m minimum rear and side boundary building setback requirement of Part 4.2.2 (C1).

It is noted that the layout includes driveways within the aforementioned 5m side boundary setback area, in order to achieve operational efficiency of the site, as provided for by Part 4.2.2 (C3).

The layout includes car parking areas to a setback of 6m from the proposed 'Open Space Edge Road' and the proposed 'shared pathway', being located forward of building elements that are setback a minimum of (approximately) 16m, are located behind a 6m deep landscaped area and includes landscaped blister islands. Therefore, it is considered that this configuration promotes the function and operation of the site / development, while not detracting from the streetscape values of the area, as provided for by Part 4.2.2 (C4).

The design of the setback areas, including associated hardstand areas, are configured to minimise the visual impacts of the overall development, and therefore the proposal is consistent with the requirements of Part 4.2.2 (C5).

### **Part 4.2.3 Landscaping**

The application has been accompanied by a detailed Landscape Plan (prepared by a Landscape Architectural firm), which involves the delivery of a comprehensive landscaping scheme which shall delivery a tree canopy coverage of approximately 15% across the site. Accordingly, it is considered that the proposal satisfies associated requirements of Part 4.2.3.

The layout provides a minimum 8m deep landscape setback to the 'Collector Road' (the eastern site frontage), a 6m deep landscape setback to the proposed 'Open Space Edge Road' and a 6m landscape setback along the proposed 'shared pathway' to the west of the site, which satisfies the respective minimum landscaped area requirements of Part 4.2.3 (C3). However, the layout only provides a minimum 2.5m deep landscape setback to the proposed 'shared pathway' to the north of the site, which does not satisfy the respective 3.75m minimum landscaped area requirement of Part 4.2.3 (C3). Notwithstanding this, given the nature of the land beyond the proposed 'shared pathway', which includes a wide road corridor for the future 'Southern Link Road' and future 'Sydney Water' infrastructure, and the landscaping to be provided immediately to either side of the proposed 'shared pathway' which shall provide for adequate landscape screening and that the landscape setback along the proposed 'shared pathway' to the west of the site (being towards areas of more environmental and recreational value), it is considered that such is acceptable in this instance.

The layout provides approximately 4,800 sqm of 'deep soil' type landscaped areas and approximately 8,700 sqm of 'pervious paved' area (being for the entire surface of the car parking area, including associated driveway areas). This equates to a site 'perviousness' of approximately 15.6% for the development site (being proposed Lot 14), which satisfies the minimum 15% site 'perviousness' requirement of Part 4.2.3 (C4).

The overall layout, including the proposed landscaping scheme, provides substantial landscaping screening within the front setback area, includes, island planter beds within the car parking area, 'preferred' species types, a mixture of plant and species types, a mix of medium and large canopy trees. Accordingly, it is considered that the proposal is consistent with associated provisions of Part 4.2.3.

#### **Part 4.2.4 Communal Areas**

The proposed building is serviced by a communal area for employees, which is located immediately adjacent to the main office area. While the communal area will not receive 2 hours of direct sunlight during mid-winter, the area is well landscaped (with soft / natural elements, paving and direct access to amenities), relatively flat and does not contain impediments, and it is considered that it will positively contribute to the amenity of staff.

#### **Part 4.2.5 Building Design**

The application has been accompanied by an Ecologically Sustainable Development Report, which outlines various sustainability and environmental performance measures. It is recommended that a condition be imposed requiring the measures contained within the report being implemented, which shall provide for compliance with the associated provisions of Part 4.2.5.

The overall layout provides for good passive surveillance of the street frontage, positive streetscape character, incorporates articulation and a variety of external materials and finishes, and high quality landscaping (which shall soften the appearance of the building and car parking areas). Furthermore, the scale and character of the proposed development is in keeping with existing adjacent development.

#### **Part 4.2.6 Design of Storage Areas**

The proposal does not involve any external storage areas. Accordingly, it is recommended that a condition be imposed requiring all items to be stored within the building.

#### **Part 4.2.7 Storage, Transportation, Handling and Processing of Chemical Substances**

The application has been accompanied by a Preliminary Hazard Analysis, indicating the quantities of dangerous goods which may be stored at the premises in conjunction with the proposed warehousing operations. The Preliminary Hazard Analysis indicates that associated quantities exceed relevant thresholds, and there an assessment of the risks posed was undertaken and is detailed within the Preliminary Hazard Analysis. The Preliminary Hazard Analysis concludes that the risks at the site boundary are not considered to exceed the acceptable risk criteria.

Accordingly, it is considered that the proposal is consistent with the associated requirements of Part 4.2.7.

#### **Part 4.2.8 Signage and Estate Entrance Walls**

The two (2) proposed pylon type signs, are modest in area and height. The signs are positioned within the street frontage landscaped areas and are considered to provide a suitable means of identifying the premises from the public domain. Given this, it is considered that the pylon signs are consistent with the relevant provisions of Part 4.2.8.

Similarly, the business identification type wall sign (on the eastern elevation) is also of modest size and provides a suitable means of identifying the premises from the public domain. Given this, it is considered that the wall sign is consistent with the relevant provisions of Part 4.2.8.

A combined sign containing the names of the developer / site owners, is shown on the northern building elevation. As such does not relate to the use of the premises and therefore does not constitute a 'business identification sign', and also given that such does not constitute a 'building identification sign', the sign is not permitted, in the 'IN1 – General Industrial' zone pursuant to State Environmental Planning Policy (Industry and Employment) 2021. Accordingly, it is recommended that a condition be imposed advising that no approval is issued for such and that the stamped approved plans be marked accordingly.

#### **Part 4.2.9 Safety and Surveillance**

The application has been accompanied by a detailed Crime Risk Assessment Report, which found the overall layout to have a 'CPTED rating of low.' Given this, it is considered that the proposal is consistent with the associated requirements of Part 4.2.9.

#### **Part 4.2.10 Lighting**

The application details that associated lighting is to be designed to comply with relevant Australian Standards, and that glare and spill will not cause nuisance to surrounding properties or the public road network. It is recommended that a condition be imposed requiring external lighting to adhere to the relevant Australian Standards, which shall provide for compliance with the relevant requirements of Part 4.2.10.

#### **Part 4.2.11 Fencing**

All proposed fencing is open type and black colour and is positioned to blend in with the associated landscape screening and is considered to be consistent with the requirements of Part 4.2.11.

#### **Part 4.3 Amenity**

The application has been accompanied by an Acoustic Assessment Report, which has considered both construction and operational elements of the development and assessed such against the noise emission criteria applicable to the site. The Acoustic Assessment Report concluded that the proposal complies with associated requirements, including the NSW Noise Policy, and assessment of the proposal by Council's Environmental Management Officer raised no objections, subject to conditions. It is recommended that associated conditions be imposed, which shall provide for compliance with the associated provisions of Part 4.3.

Additionally, the application has been accompanied by an Air Quality Risk Assessment, which has considered both construction and operational elements of the development and assessed such against the relevant air quality emission criteria applicable to the site. The Air Quality Risk Assessment concluded that site is capable to not give rise to significant air quality impacts associated with the proposal, and assessment of the proposal by Council's Environmental Management Officer raised no objections, subject to conditions. It is recommended that associated conditions be imposed, which shall provide for compliance with the associated provisions of Part 4.3.

#### **Part 4.4 Earthworks and Retaining Walls**

The proposed finished levels 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. Accordingly, it is considered that the proposal is consistent with the associated provisions of Part 4.4.

The application has been accompanied by an Erosion and Sediment Control Plan, and it is

recommended that associated conditions be imposed, which shall provide for compliance with the associated provisions of Part 4.4.2.

#### **Part 4.5 Waste Minimisation and Management**

The overall layout provides waste and recycling storage areas in appropriate locations and provides site on-site manoeuvring for waste vehicles. Furthermore, a detailed Waste Management Plan has been provided in support of the proposal, which satisfies the associated provisions of Part 4.5.

#### **Part 4.6 Access and Parking**

'Warehouses or distribution centres' are required to provide 1 car parking space per 300 sqm of gross floor area or 1 space per 4 employees (whichever is the greater). While in addition, 'ancillary office space' is required to provide 1 car parking space per 40 sqm of gross floor area. The proposed layout comprises of 34,885 sqm of 'warehouse' area and approximately 1,078 sqm of associated office space. The proposed use of the premises involves up to 270 staff at any one time.

This equates to a requirement for a minimum of 144 car parking spaces. The proposal involves the provision of 250 car parking spaces, which satisfies such.

Assessment of the proposal, including by Council's Senior Traffic Engineer, Council's Engineering Consultant and Transport for NSW, did not identify any noteworthy design issues with the overall layout, and it is considered that such provides for compliance with relevant Australian Standards, satisfactory vehicular access to and from all driveways, promotes safe and efficient traffic movement, suitably accommodates heavy vehicle manoeuvring and loading areas, separates and avoids conflict between light (i.e. staff / visitor) and heavy vehicular movements, and allows all vehicles to enter and leave the site in a forward direction. Accordingly, it is considered that the proposal is consistent with the relevant provisions of Part 4.6, subject to the recommended conditions.

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

State Voluntary Planning Agreement No. 2020-112 (in accordance with SSD-9522), relating to the overall / broader site, was executed on 24 May 2021, to satisfy regional contribution obligations. The Planning Agreement gives effect to the development of the site for warehousing / logistic purposes, as proposed, and assessment of the proposal has not identified any conflicts with such.

While a Planning Agreement between Council and the Landowner, was executed on 29 September 2022, relating to the development of the broader site (including in relation to the proposed development), and requiring payment of a monetary contribution of \$9,600,000 (to Council), to be used for provision of new trees, shrubs and ground covers (in areas reserved for open space), the construction of bike and pedestrian tracks, and the provision of outdoor exercise equipment, picnic areas and rest areas. In relation to such, it is recommended that a condition be imposed, requiring the monetary contribution to have been paid, prior to the issuing of any Construction Certificate (or at a time otherwise agreed by Council).

### **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, 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.

### **Regulation 35 - Additional requirements for Development Applications in certain areas of Sydney**

The site is located within the Mamre Road Precinct (being 'Precinct 12' of the Western Sydney Employment Area) and the application has been accompanied by an assessment of the consistency of the development with the Mamre Road Precinct Structure Plan (being the applicable 'relevant plan' for the Mamre Road Precinct), as required by the subject regulation.

### **Regulation 66 - Contributions plans for certain areas in Sydney**

While the site is located on land within the Western Sydney Employment Area that is zoned 'IN1 - General Industrial, the broader site is subject to a Planning Agreement, which was executed (on 29 September 2022) in lieu of making payment for Local Development Contributions. Accordingly, such satisfies applicable matters of the subject regulation. Notwithstanding this, it is recommended that a condition be imposed requiring the payment of the applicable required contribution, prior to the issuing of any Construction Certificate.

### **Regulation 70 - Erection of signs**

A condition is to be imposed requiring the erection of a sign in a prominent position on the site for the duration of works, providing details (including of the principal certifier and the principal contractor) as required by this Regulation.

### **Regulation 74 - Shoring and adequacy of adjoining property**

It is recommended that a condition be imposed in relation the protection and support of adjacent buildings, structures and works on adjoining land, as required by this Regulation.

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

The proposed development aligns with the development currently being undertaken for the broader site, being for the 91-hectare industrial estate known as the 'Kemps Creek Estate' (which is also known as 'The Yards'), pursuant to SSD-9522.

Moreover, the layout of the proposed warehouse and distribution facility, does not provide any conflict with approved like developments on land immediately to the south of the site, being for a 'warehousing and manufacturing development' comprising of 27,470 sqm of floor space which is under construction pursuant to SSD-25725029 and a 'warehouse and distribution facility' comprising of 30,566 sqm of floor space recently approved pursuant to Development Consent No. DA22/0671.

Furthermore, it is considered that the overall proposal (including the use of the premises as a packaging, warehousing and distribution facility), having regard to the material accompanying the application, does not provide any adverse unreasonable environmental, social or economic impacts, noting that the broader area is undergoing significant transformation following the rezoning of land within the Mamre Road Precinct (associated with the Western Sydney Employment Area), subject to the recommended conditions being imposed.

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

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

## **Section 4.15(1)(d) Any Submissions**

### **Community Consultation**

The application was advertised (through a notice in a local newspaper) and notified to adjacent property owners from 23 January 2023 until 6 February 2023, 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:

<b>Referral Body</b>	<b>Comments Received</b>
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
Traffic Engineer	No objection subject to conditions

## **Section 4.15(1)(e)The public interest**

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

## **Section 94 - Developer Contributions Plans**

While the site is located within the Mamre Road Precinct, SSD-9522 which relates to the subject site (and the broader 'Kemps Creek Estate'), was issued prior to the commencement of the Mamre Road Precinct Development Contributions Plan 2022 (in March 2022). Accordingly, the land subject to State Significant Development Consent No. 9522, was excluded from such (i.e., the Mamre Road Precinct Development Contributions Plan 2022 does not apply to the site).

In lieu of making payment for Local Development Contributions (i.e., under a Section 7.11 or Section 7.12 Plan), a Planning Agreement between Council and the Landowner, has been entered into. The Planning Agreement was executed on 29 September 2022, and relates to the development of the broader site (including in relation to the proposed development), and requires the payment of a monetary contribution of \$9,600,000 (to Council), to be used for provision of new trees, shrubs, and ground covers (in areas reserved for open space), the construction of bike and pedestrian tracks, and the provision of outdoor exercise equipment, picnic areas and rest areas.

## **Conclusion**

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

1. The site is zoned both 'IN1 – General Industrial' and 'RE1 – Public Recreation', under State Environmental Planning Policy (Industry and Employment) 2021. 'Warehouses or distribution centres' and 'Roads' are permitted with consent in the 'IN1 – General Industrial' zone, and 'Roads' and 'Recreation areas' are permitted with consent in the 'RE1 – Public Recreation' zone.
2. The proposed development is considered to meet the objectives for the 'IN1 – General Industrial' zone and the 'RE1 – Public Recreation' zone.
3. The proposed development aligns with the development being undertaken for 'Kemps Creek Estate' and associated State Significant Development Consents.
4. The proposal satisfactorily responds to key planning considerations, such as in relation to urban design, scale of development, relationship to adjacent future 'Local Open Space' areas, road infrastructure delivery, sustainability, water recycling and conservation, traffic impacts, heavy vehicle manoeuvring and car parking, landscaping outcomes, visual Impacts, and potential amenity impacts.
5. It is considered that the proposal will not provide for any significant adverse or unreasonable impacts on the broader area.

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

## Recommendation

That Development Application No. 22/1172, be approved subject to the following recommended conditions.

## CONDITIONS

### General

- 1 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 Title	Plan / Drawing Nos.	Issue	Prepared by	Dated
Location & Site Plan	PG-KC-DA-A00	P15	HL Architects	9 June 2023
Site Plan	PG-KC-DA-A001	P18	HL Architects	15 June 2023
Open Space Edge Road Layout Plan	PG-KC-DA-A002	P15	HL Architects	9 June 2023
Subdivision Plan	PG-KC-DA-A003	P15	HL Architects	5 June 2023
Office A & Dock Office Floor Plans	PG-KC-DA-A120	P15	HL Architects	9 June 2023



Warehouse Office & Lunchroom Floor Plan	PG-KC-DA-A121	P15	HL Architects	9 June 2023
Warehouse Elevations	PG-KC-DA-A200	P15	HL Architects	6 June 2023
Office Elevations	PG-KC-DA-A201	P15	HL Architects	9 June 2023
Warehouse Sections	PG-KC-DA-A210	P15	HL Architects	5 June 2023
External Lighting Plan	PG-KC-DA-A400	P15	HL Architects	9 June 2023
Landscape Concept Plan ('Lot 14')	H8-22018 (Drawing Nos. L-01 to L-14)	H	Habit8	20 June 2023
Landscape Concept Plan ('Bike Path & Recreation Areas')	H8-23024 (Drawing Nos. L-01 to L-13)	C	Habit8	9 June 2023
Report / Document Title		Prepared By		Dated
Operational Summary		Probiotec Ltd.		-
Air Quality Risk Assessment		Northstar Air Quality P/L		2 November 2022
Acoustic Report		Acoustic Works		17 November 2022
Ecologically Sustainable Development Report		Fraser's Property Industrial Construction P/L		8 November 2022
Crime Risk Assessment Report		NEAL Consulting Solutions		23 November 2022
Bushfire Assessment Report		Peterson Bushfire		14 June 2023
Geotechnical Assessment Letter		PSM Consulting P/L		11 November 2022
Resilience and Hazards SEPP Statement		Riskcon Engineering P/L		14 December 2022
Waste Management Plan		Land & Groundwater Consulting P/L		11 November 2022

- 2 Prior to the issue of any Construction Certificate, the Civil Works Plans, submitted to Council (in support of the Development Application) on 21 June 2023, prepared by Costin Roe Consulting P/L, are to be **amended to incorporate the following** and approved by Penrith City Council's Senior Development Assessment Planner (in consultation with Penrith City Council's Development Engineers):-

- The Stormwater Concept Plan is to include details demonstrating that the stormwater management system, including the rainwater tank(s) has been sized to achieve a non-potable water reuse demand of 80% (in accordance with Council's Water Sensitive Urban Design Policy).
- All site stormwater discharge from the development of proposed Lot 14, shall be contained within the lot and directed to a single point of discharge. The establishment of a swale and drainage to such, within the future adjoining open space are not permitted.
- All car parking areas, and associated driveway, access, and manoeuvring areas, are to comprise of pervious pavers (as indicated on the approved Landscape Plan) and be permeable over the entire area.
- Design plans for the 'interim' (mountable teardrop island) and 'ultimate' (roundabout) intersection of the 'Open Space Edge Road' (Access Road 5) with Access Road 3.
- Detailed civil engineering plans for the design of the 'Open Space Edge Road' (Access Road 5). The design shall be in accordance with the Mamre Road Precinct Development Control Plan 2021, and shall include long sections and cross sections, demonstrating acceptable batter interfaces with adjoining infrastructure and open space lands.
- Detailed civil engineering design plans of the 'shared pathway between the 'Open Space Edge Road' (Access Road 5) and Access Road 1. The shared path shall be a minimum of 3.5m wide (as shown on the approved Landscape Plan), be designed to accommodate heavy vehicular access for maintenance purposes, and shall include long sections and cross sections, demonstrating suitable interfaces with adjoining infrastructure and future open space lands.

The works depicted within the plans submitted and approved in satisfaction of this condition are to be complied with throughout the construction and operation of the development.

Note: Provision should be made in completing the final stormwater design, to enable a seamless connection to Sydney Water's Regional Stormwater Scheme, including the associated decommissioning of on-site rainwater harvesting and re-use systems.

- 3 Prior to the issue of a construction certificate, details are to be submitted and approved by the Certifier, demonstrating that
- Vehicular access and internal heavy vehicle manoeuvring areas have been designed for a 30m A-Double vehicle.
  - Sight distance requirements are in accordance with AS2890.2, Figure 3.3, and Figure 3.4.
  - All vehicles accessing the site can enter and exit to / from the road, in a forward direction.
- 4 Prior to the commencement of the operation of the development, the Applicant must complete the construction of the internal Estate roads and applicable upgrade works to the Mamre Road - Bakers Lane intersection under SSD-9522, to the satisfaction of Penrith City Council and in accordance with the requirements of SSD-9522.

- 5 A Construction Certificate shall be obtained prior to commencement of any building works.
- 6 With respect to development that involves excavation that extends below the level of the base of the footings of a building, structure, or work on adjoining land, including a structure or work in a road or rail corridor, the applicant must at their own expense:-
  - a) protect and support any building, structure, or work on adjoining land from possible damage from the excavation,
  - b) if necessary, underpin the building, structure, or work on adjoining land to prevent damage from the excavation.

Note: These requirements do not apply if:-

- a) the person having the benefit of the development consent owns the adjoining land, or
  - b) the owner of the adjoining land gives written consent to the condition not applying.
- 7 The development shall not be used or occupied until a final Occupation Certificate has been issued.
- 8 The development shall not be used or occupied until a Subdivision Certificate has been issued (including the delivery and dedication of the proposed 'Open Space Edge Road').
- 9 Prior to the issue of the final Occupation Certificate for the building, all measures outlined within the Ecologically Sustainable Development Report, prepared by Frasers Property Industrial Construction P/L (version No. 2), dated 8 November 2022, submitted in support of the Development Application, are to be implemented to the satisfaction of the Principal Certifying Authority.
- 10 The recommendations made within the Crime Risk Assessment Report (i.e., within Part 3.3), prepared by NEAL Consulting Solutions, version 'Final v0.1', dated 23 November 2022 (submitted in support of the Development Application), are to be implemented. Prior to the issuing of the final Occupation Certificate, the Principal Certifying Authority is to ensure that all associated works have been completed in accordance with such.
- 11 The following community safety and crime prevention through environmental design (CPTED) requirements, must be implemented:
  - All outdoor spaces must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.
  - CCTV is to be provided. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.

Advisory notes:

- All areas of the car park should be well-lit, with consistent lighting to prevent shadowing or glare.
- Entrances to the offices and other focal areas should be easily identifiable, well signed and allow good visibility on approach and towards the public space.

- Graffiti resistant coatings are encouraged to be used for external surfaces where possible.
  - Procedures are to be in place to ensure the prompt removal and / or repair of graffiti or vandalism. This includes reporting incidents to police and other relevant authorities.
- 12 Lighting is to be designed and directed so as to not cause light spill onto adjoining sites, sensitive receivers, or adjacent natural areas, and is to be provided in accordance with the requirements of Australian Standard 4282-1997 - Control of the obtrusive effects of outdoor lighting.
  - 13 Fire hydrants are to be installed to comply with AS2419.1 – 2005 Fire Hydrant Installations - System Design, Installation and Commissioning (AS 2419).
  - 14 Any gas services are to be installed and maintained in accordance with AS/NZS 1596-2014 - The storage and handling of LP gas.
  - 15 The approval of fencing is limited to that indicated on the approved plans. All elements of the fencing, including the footings, is to be contained entirely within the development site and not encroach upon the any existing or future road corridor.
  - 16 The approval of signage is limited to the two (2) freestanding combined business identification and directional signs, and the business identification type wall sign, as shown on the approved plans. The signage:
    - is not to be illuminated;
    - is not to flash, move or display electronic images;
    - is to be maintained in a condition as to not become unsightly; and
    - contents must relate to the existing and the approved use of the premises.

The signage shown on the western building elevation, is to be deleted from the architectural plans, prior to the issuing on a Construction Certificate.

- 17 The use of the premises shall comply with the following requirements:
  - a) The approved Operational Summary, prepared Probiotec Ltd.
  - b) The approved hours of operation for the use of the premises, are 24 hours per day, 7 days a week.
  - c) All materials and goods associated with the use, shall be stored within the building and not under any awning.
  - d) No retail sales or sales to the general public, shall be made from the premises.
  - e) All waste, recycling, and bins are to be contained within designated Waste Management Area(s).
  - f) The premises shall be maintained in a clean and tidy state at all times.
  - g) The goods being stored in the warehouse at any given time, must not comprise of quantities of 'Dangerous Goods' greater than that listed on Table 3-1 of the approved Preliminary Hazard Analysis, prepared by Riskcon Engineering P/L, dated 14 December 2022.
  - h) Hazardous or combustible materials are not to be stored externally.
  - i) Vehicles servicing the site shall be limited in size to 30m A-Double.
  - j) The operation must not result in any vehicles queuing on the public road network.

- k) All vehicular entries and exits to the site shall be made in a forward direction and all vehicles awaiting loading or unloading shall be parked on site and not on adjacent or nearby public roads.
- 18 The design and construction recommendations provided in the Acoustic Report, prepared by Acoustic Works, dated 17 November 2022, shall be implemented, and incorporated into the design and construction of the development. Details of such are to be provided on the plans accompanying the Construction Certificate application.

Noise levels from the premises, shall not exceed the relevant noise criteria detailed in the Acoustic Report, prepared by Acoustic Works, dated 17 November 2022 (Reference No. R01B). Furthermore, the provisions of the Protection of the Environment Operations Act 1997, apply to the development in terms of regulating offensive noise.

## **Heritage/Archaeological relics**

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

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

## **Environmental Matters**

- 20 Prior to the issue of the Construction Certificate, a Construction Environmental Management Plan is to be prepared by a suitably experienced and qualified person and submitted and approved, by the Environmental Health Coordinator, Penrith City Council.

The Construction Environmental Management Plan 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.

The Construction Environmental Management Plan is to address, but is not limited to the following:

- Water quality management,
- Noise control and hours of operation,
- Dust suppression,
- Waste management (including solid and liquid waste),
- Erosion and sediment control,
- Air quality including odour and dust control.

All construction activities on the site are to be implemented and carried out in accordance with the Council approved Construction Environmental Management Plan.

- 21 Prior to the issue of the Construction Certificate, a Construction Waste Management Plan is to be submitted to Council for approval. This Plan is to address all waste materials generated during the construction phase of the development, including details of the proposed waste volumes, on site storage and management, designated waste contractors and waste facilities.

The final approved Waste Management Plan must be implemented and adhered to on-site, with supporting documentation / receipts retained in order to verify the disposal of materials in accordance with the approved Plan.

- 22 Prior to the issue of the Occupation Certificate, a detailed Environmental Management Plan, is to be submitted to and approved by the Development Assessment Coordinator, Penrith City Council.

The Environmental Management Plan is to address the environmental aspects of the development and is to include details on the environmental management practices and controls to be implemented on the site. The Environmental Management Plan must be prepared by a suitably qualified and experienced person(s), in consultation with the relevant authorities and agencies, and is to address, but is not limited to the following:

- Water quality management,
- Wastewater management,
- Stormwater management and drainage,
- Noise control and hours of operation,
- Dust suppression,
- Waste management (including solid and liquid waste),
- Chemical storage (including dangerous/hazardous goods), transport, spill contingency and emergency response,
- Air quality including odour and dust control,

Compliance is to be had with the final approved Environmental Management Plan at all times. Additionally, the provisions of the Protection of the Environment Operations Act 1997, apply to the development, in terms of regulating offensive noise.

#### Operational matters of the development

Compliance Certificates or other written documentation shall be obtained from a qualified environmental consultant certifying that the above mentioned aspects of the Council approved Environmental Management Plan are complied with. The Compliance Certificate or other written documentation shall be submitted to Penrith City Council on an annual basis, on the anniversary of the Occupation Certificate being issued for the development.

- 23 Prior to the issue of the Construction Certificate, details of the proposed spill containment system are to be submitted to and approved by the Environmental Health Coordinator, Penrith City Council. The spill containment system is to be designed so that it is suitable for the type of materials to be contained and is to ensure a containment capacity equal to 25% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater.

The spill containment system details are to demonstrate compliance with relevant standards including Australian Standards, the Australian Code for the Transport of Dangerous Goods by Road & Rail (ADG Code) and SafeWork NSW Codes and requirements.

- 24 Prior to the issue of a Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development are to be submitted to and approved by the Environmental Health Coordinator, Penrith City Council. The submitted details are to include, suitable data and information assessed by a suitably qualified Acoustic Consultant,

demonstrating compliance with the established noise criteria within the approved Acoustic Report, prepared by Acoustic Works, dated 17 November 2022.

Note: For the purpose of this condition a suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia, or the Association of Australian Acoustic Consultants at the grade of member.

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

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

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

- 26 Construction works shall be carried out in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.
- 27 Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.
- 28 Mud and soil from vehicular movements to and from the site, must not be deposited on the road.
- 29 No fill material shall be imported to the site until such time as a certificate demonstrating that the material is suitable has been submitted to, considered, and approved by Council. This certificate may be in the form of a validation certificate, waste classification, or appropriate resource recovery order/exemption. A copy of a report forming the basis for the validation is also to be provided. The certification shall:
- 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,
  - (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

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 work may be

requested. In these circumstances the works shall be carried out prior to any further approved works.

Note: 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..”

- 30 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.
- 31 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. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

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.

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

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

- 33 A plan detailing spill prevention, contingency and emergency clean-up procedures for the development shall be submitted to Penrith City Council for approval prior to Occupation Certificate being granted.
- 34 All works and storage areas where spillages are likely to occur shall be bunded. Where Australian Standards apply, bunding construction and capacity must comply with those standards. Where Australian Standards do not apply, the size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater.
- 35 Offensive odours are not to be emitted from the site. Vapours, fumes, gases, particles, or any other substance that are considered to be harmful to human health or the environment or impact unreasonably on a person outside of the premises are not to be emitted from the site.
- 36 The construction and operational phases of the development are not to generate air quality impacts (including dust and odour) exceeding the relevant air quality and / or odour emissions



criteria, as detailed in Air Quality Risk Assessment prepared by Northstar Air Quality P/L, dated 2 November 2022 (Reference 22.11048.FR1V2).

The recommendations provided in the above-mentioned Air Quality Risk Assessment shall be implemented and incorporated into the design and construction of the development. A certificate is to be obtained from a qualified odour/air quality consultant certifying that the development has been constructed to meet the air quality and/or odour emissions criteria in accordance with the Council approved Air Quality Risk Assessment. This certificate is to be submitted to Penrith City Council within sixty (60) days of the date of consent.

- 37 Loading and unloading of oils, chemicals and any other liquid materials must only take place in a bunded area.
- 38 All liquid spills are to be cleaned up using dry methods only.
- 39 Wastewater from the washing of garbage bins and vehicles is not to enter the stormwater system.

### **BCA Issues**

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

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

### **Utility Services**

- 41 All services (water, sewer, electricity, telephone, and gas) are to be installed before final inspection of the subdivision related engineering works.

Prior to the release of the linen plan, the following service authority clearances shall be obtained:

- a Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. This is required prior to the issue of the Subdivision Certificate and
- a letter from Integral Energy stating that satisfactory arrangements have been made for electricity supply to all proposed allotments in the subdivision, including any necessary easements; and
- a letter from an approved telecommunications service provider that satisfactory arrangements have been made for underground telephone services to all proposed allotments in the subdivision, including any necessary easements.

These clearances are to be submitted to the Principal Certifying Authority.

42 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](http://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.

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

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

Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) - Plumbing, building & developing - Sydney Water Tap in, or telephone 13 20 92.

44 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.

45 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.

## **Construction**

46 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.

47 Prior to the commencement of construction works:

- 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.
- 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.
- 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).
- 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.

48 The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority immediately prior to the positioning of wall panels / bricks or block work.

Additionally, a Survey Certificate of the location of the building upon completion shall be undertaken and submitted to the Principal Certifying Authority, prior to the issue of any Occupation Certificate. The Survey Certificate is to show the boundaries of the allotment and the distances of the building from the boundaries.

## Engineering

49 All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

50 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 or Subdivision Works 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.

51 Lodgement of relevant Section 138 Roads Act applications, including payment of application and Council 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).

You are required to lodge the applicable Section 138 Roads Act application for the below works that apply to your specific development prior to that work activity commencing. Please liaise with your builder to determine what applications are required for your development.

These works may include but are not limited to the following:

- a) Construction of driveways (including kerb reinstatement of redundant driveway crossings and reconstruction of any affected footpaths and/or cycleways)
- b) Temporary road reserve occupancies
- c) Road reserve openings for the installation of:
  - Utilities (water, sewer, power, telecommunications)
  - Private stormwater connections to the kerb (including stormwater connection to Penrith City Council owned drainage)
  - Reconstruction of concrete footpath and/or cycleways across the frontage
- d) Establishment of a construction work zone e) Establishment of road reserve hoardings and temporary structures/fencing etc.
- e) Operation of a tower crane over the road reserve
- f) Temporary ground anchors that encroach below the road reserve (for basement construction).

All works shall be carried out in accordance with the Roads Act Approval and the conditions outlined in the Roads Act Applications, the development consent, including the stamped approved plans, and Penrith City Council's Driveway and Road Reserve Restoration Works Specification, guidelines and engineering best practice.

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

Note:

- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval(s) 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 practicing 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.

- 52 Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for provision of an interim (mountable teardrop) and final (roundabout) intersection of Access Road 5 and Access Road 3

Engineering plans are to be prepared in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and 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 the 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.

- 53 A Subdivision Works Certificate (previously a Construction Certificate) is to be approved by the Certifier for the provision of any subdivision works (road, drainage, earthworks), including the construction of the 'Open Space Edge Road' and the 'shared pathway'.

Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that engineering plans are consistent with the final approved Civil Plans, and that all associated works have been designed in accordance with conditions of this Development Consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

The subdivision works may include but are not limited to the following:

- Public and private roads
- Stormwater management (quantity and quality)
- Inter-allotment drainage
- Private access driveways

- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks Bridges, culverts, retaining walls and other structures
- Street trees
- Landscaping and embellishment works

The Subdivision Works Certificate must be supported by engineering plans, calculations, specifications, and any certification relied upon.

Note: Subdivision Works Certificates are now lodged via the NSW Planning Portal. Further information on the lodgement process can be found on the NSW Planning Portal website. Council's Development Engineering Department can provide this service and can be contacted on 4732 7777 to obtain a formal fee proposal prior to lodgement on the portal or if you require any assistance with the lodgement process.

- 54 Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that the proposed 'Open Space Edge Road' (Access Road No. 5) has been designed in accordance with Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, and the following criteria:

- Road Reserve Width - 19.5m
- Carriageway Width - 10.5m
- Verge Width - 4m (west) & 5m (east)
- Footpath - 2.5m (west) & 1.5m (east)

Road pavement design shall be undertaken in accordance with Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments. A copy of the pavement design prepared and certified by a suitably qualified geotechnical engineer must accompany the application for the Subdivision Works Certificate.

The 'Open Space Edge Road' shall not be utilised for heavy vehicles. Appropriate load limit signage shall be provided and detailed on a Signage & Linemarking Plan, subject to endorsement by Local Traffic Committee (LTC).

- 55 A Stage 3 (detailed design) Road Safety Audit shall be undertaken in accordance with *Austroads Guide to Road Safety Part 6: Road Safety Audit* on the proposed roadworks by an accredited auditor who is independent of the Design Consultant. A copy of the Road Safety Audit shall accompany the design plans submitted with the Subdivision Works Certificate or Roads Act application.

Prior to the issue of the Subdivision Works Certificate or Section 138 Roads Act approval, the Certifier shall ensure that the recommendations of the Road Safety Audit have been considered in the final design, through review of the Road Safety Audit Checklist, including findings, recommendations, and any corrective actions.

A copy of the Road Safety Audit shall be submitted to Penrith City Council by the applicant or Certifier for information purposes.

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

Prior to the issue of a Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design Policy.

The stormwater management system shall be provided in accordance with the final approved Stormwater Plans.

- 57 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 Subdivision Works Certificate.

- 58 Prior to the issue of a final Occupations Certificate, the Certifier is to ensure that all car parking areas, and associated driveway, access, and manoeuvring areas, are constructed with pervious pavers, as indicated on the approved Landscape Plan.

- 59
- a) All vehicle parking spaces, parking aisles and driveways / circulation roads, are to be designed and constructed in accordance with AS2890.1, AS2890.2 and AS2890.6.
  - b) Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian, and parking area, associated with the development are provided in accordance with the approved plans, AS2890.1, AS2890.2 and AS2890.6.
  - c) The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
  - d) 250 car parking spaces shall be designed, sealed and line marked, in accordance with the approved plans. Three (3) of these spaces are to be accessible spaces with a shared zone and three (3) other spaces are to be provided with electric vehicle charging stations.
  - e) Wheel stops shall be provided along the front of all car parking spaces, in accordance with AS 2890.1 - Parking Facilities.
  - f) Each space shall be permanently line marked at all times.
  - g) All parking spaces, loading zones, parking aisles and manoeuvring areas are to be kept clear of stored materials, products, and waste materials, such that these areas remain unobstructed and allow for the safe movement of vehicles.
  - h) Staff, company, and visitors' vehicles shall be parked in the spaces provided on the subject premises and not on adjacent footpaths or landscaping areas.

- 60 Prior to the commencement of any works on-site, and prior to the issue of any Construction Certificate or Subdivision Works 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 Asset Management Department on 4732 7777 and refer to Council's website for a copy of the Temporary Road Reserve Occupancy Application Form.

- 61 Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate or Subdivision Works Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

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

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

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

Note:

- A copy of the Traffic Guidance Scheme shall accompany the Notice of Commencement to Penrith City Council.
  - Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of any Construction Certificate or Subdivision Works Certificate.
- 63 Work in relation to the construction of the 'Open Space Edge Road', shall shall not commence until:
- a Subdivision Works Certificate has been issued for such,
  - a Certifier has been appointed for the works, and;
  - any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

A Notice of Commencement of works is to be submitted to Penrith City Council five (5) days prior to commencement of engineering works or clearing associated with the subdivision.

- 64 Lighting is to be provided along the proposed 'Open Space Edge Road' and the proposed 'shared pathway' in accordance with associated Council standards.
- 65 All services for the development, including those across the frontage of the development, are to be located or relocated underground in accordance with the relevant authorities' regulations and standards.
- 66 Prior to the issue of any Occupation Certificate or Subdivision 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.
- 67 Prior to the issue of any Subdivision Certificate, the Principal Certifier shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.
- 68 Prior to the issue of any Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):



- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
- Have met the design intent with regard to any construction variations to the approved design.
- Any remedial works required to been undertaken have been satisfactorily completed.

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

- 69 Prior to the issue of any 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 Penrith City Council is not the Principal Certifier.

- 70 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
- 71 Prior to the issue of any Subdivision Certificate and installation of regulatory/advisory signage and line marking, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee. The plans shall include the provision of appropriate load limit signage such that the Open Edge Space Road will not be utilised by heavy vehicles.

Notes:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for further information on this process.
- Allow eight (8) weeks for approval by the Local Traffic Committee.
- Applicable fees are indicated in Council's adopted Fees and Charges.

- 72 Prior to the issue of any Subdivision Certificate, an application for proposed street names must be lodged with Penrith City Council, approved and the signs erected on-site.

The proposed names must be in accordance with NSW Address Policy and User Manual by Geographical Names Board.

Notes:

- Contact Penrith City Council's Engineering Services Department on 4732 7777 for advice regarding the application process and applicable fees.
- Allow approximately eight (8) weeks for notification, advertising, and approval.

- 73 Prior to the issue of a Subdivision Certificate, the full (19.5) width of the 'Open Edge Space Road' (Access Road 5) is to be dedicated to Penrith City Council, as Road Reserve.
- 74 Prior to the issue of any Subdivision Certificate, the following compliance documentation shall be submitted to the Principal Certifier. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifier:
- a) Works As Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Subdivision Works Certificate drawings signed, certified, and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.
  - b) The WAE drawings shall clearly indicate the 1% Annual Exceedance Probability flood lines (local and mainstream flooding).
  - c) The WAE drawings shall be accompanied by plans indicating the depth of cut / fill for the entire development site. The survey information is required to show surface levels and site contours at 0.3m intervals. All levels are to be shown to AHD.
  - d) CCTV footage in USB format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.
  - e) A copy of all documentation, reports and manuals required by Section 2.6 of Penrith City Council's WSUD Technical Guidelines for handover of stormwater management facilities to Penrith City Council.
  - f) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.
  - g) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.
  - h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Penrith City Council's Design Guidelines and Construction Specification. The report shall include:
    - Compaction reports for road pavement construction.
    - Compaction reports for bulk earthworks and lot regarding.
    - Soil classification for all residential lots.
    - Statement of Compliance.
  - i) Structural Engineer's construction certification of all structures.
  - j) A slope junction plan for inter-allotment drainage lines indicating distances to boundaries and depths.
  - k) Soil testing for each lot to be classified according to AS2870 Residential Slabs and Footings.
- 75 The stormwater management system shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.

Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

- 76 Prior to the issue of a final Occupation Certificate, an Operational Traffic Management Plan is to be prepared. The Plan shall include all details of any traffic control measures and the management of heavy vehicles servicing the development.
- 77 Prior to the issue of the final Occupation Certificate, directional signage, and line marking, shall be installed indicating directional movements and the location of customer and / or staff parking to the satisfaction of the Principal Certifier.

## Landscaping

- 78 All landscape works are to be completed in accordance with the stamped approved Landscape Plan. Landscaping shall be maintained:
- in accordance with the approved plan, and
  - in a healthy state, and
  - in perpetuity by the existing or future owners and occupiers of the property.

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

- 79 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.
- 80 On completion of the landscape works associated with the development and prior to the issue of the final Occupation Certificate for the development, a Landscape Implementation Report, must be prepared by a suitably qualified and experienced landscape professional, attesting to the satisfactory completion of the landscaping works for the development.

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

- 81 Landscaping shall be maintained:
- in accordance with the approved plan,
  - to achieve its mature dimensions and form, unless otherwise specified and approved (for example hedging), and
  - in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the property.

Hedging, excessive pruning and lopping of plants undertaken is not permitted, unless specified the approved Landscape Plan.

- 82 From the commencement of building works and in perpetuity, the site is to be maintained as an Inner Protection Area, in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.

The following landscaping specifications apply to achieve the Inner Protection Area for the proposed development:

Trees at maturity should not touch or overhang the building.

- Tree crowns should not provide a connected canopy between the identified hazard and the building when at maturity.
- Ensure gaps in the vegetation, such as between garden beds, to prevent the spread of fire towards the building.
- Clumps of shrubs should be separated from glazing and doors by a distance of at least twice the height of the vegetation.
- Grass should be kept mown (as a guide grass should be kept to no more than 100mm in height).
- Leaves and vegetation debris should be regularly removed.
- Organic mulch is not to be used within 1m of a building.

## Subdivision

83 Work on the subdivision is not to commence until:

- a Subdivision Works Certificate has been issued,
- a Principal Certifying Authority has been appointed for the project, and
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

Penrith City Council is to be notified 48 hours prior to commencement of engineering works or clearing associated with the subdivision.

84 The subdivision approved pursuant to State Significant Development Consent No. 25725029, is to be fully completed, all associated Development Consent conditions satisfied, and the associated lots registered with Land and Property Information NSW, prior to the issuing of a Subdivision Certificate (associated with this Development Consent).

85 Prior to the issue of the Subdivision Certificate, the following is to be submitted:

An original plan of subdivision and associated administration sheets. The plan of subdivision must indicate, where relevant –

- All drainage easements, rights of way, restrictions, and covenants.
- All proposed dedications of roads / drainage / public reserve, which are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

Prior to lodgement of the Subdivision Certificate Application, street address numbering must be obtained/approved by Penrith City Council by completing the Street Address Confirmation Application Form found on Council's website. Instructions for completion and submission are outlined on the form.

- 86 A Surveyors Certificate is to be lodged with the application for a Subdivision Certificate that certifies that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

### **Development Contributions**

- 87 Prior to the issue of any Construction Certificate (or at a time otherwise agreed to by Council), the Applicant must pay the required contribution to Penrith City Council, in accordance with the Planning Agreement between Penrith City Council, Altis Frasers JV P/L and The Trust Company (Australia) Ltd, that was executed on 29 September 2022.

Evidence of required monetary payment and condition satisfaction from Penrith City Council is required to be provided to the appointed certifying authority.

- 88 A special infrastructure contribution must be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Determination 2022 (as in force when this development consent takes effect).

A person may not apply for a subdivision certificate or construction certificate (as the case may require, having regard to the Determination) in relation to development the subject of this development consent unless the person provides, with the application, written evidence from the Department of Planning and Environment that the special infrastructure contribution for the development (or that part of the development for which the certificate is sought) has been made or that arrangements are in force with respect to the making of the contribution.

A request for assessment by the Department of Planning and Environment of the amount of the contribution that is required under this condition can be made through the NSW Planning Portal (<https://www.planningportal.nsw.gov.au/development-assessment/contributions/sic-online-service>). Please refer enquiries to [SICcontributions@planning.nsw.gov.au](mailto:SICcontributions@planning.nsw.gov.au).

### **Certification**

- 89 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- 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
  - 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.