

<b>DATE OF DETERMINATION</b>	14 August 2023
<b>DATE OF PANEL DECISION</b>	12 August 2023
<b>DATE OF PANEL BRIEFING</b>	31 July 2023
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), David Kitto, Brian Kirk, Carlie Ryan, Ross Fowler
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Louise Camenzuli declared a conflict of interest as the firm she is employed at represents the applicant for another site.

Papers circulated electronically on 25 July 2023.

#### **MATTER DETERMINED**

PPSSWC-299 – Penrith – DA22/1172 - 657-767 Mamre Road, Kemps Creek - 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.

#### **PANEL CONSIDERATION AND DECISION**

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings and the matters listed at item 8 in Schedule 1.

#### **Development application**

The panel determined to approve the development application pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The panel determined to uphold the Clause 4.6 variation to building height; and approve the application for the reasons outlined in the council assessment report and accepting that for the reasons advanced in that report the development is in the public interest.

1. The proposed development will augment the contribution of the 91-hectare industrial estate known as the 'Kemps Creek Estate' or 'The Yards', and will accord with State Significant Development approval SSD-9522. As such it will further the transformation of land within the Mamre Road Precinct following the rezoning of land associated with the Western Sydney Employment Area.
2. The proposed development for a warehousing and associated infrastructure is permissible with consent and considered consistent with the objectives for the IN1 – General Industrial zone under SEPP (Industry & Employment) 2021. It is also supportive of objective W7 of the Western City District Plan to the extent it aims to establish the land use structure to deliver a liveable, productive, and sustainable Western Parkland City. It will assist in driving opportunities for investment, business and jobs growth; supporting economic diversity; supporting internationally competitive industry sectors. The section of the proposed road (including and around the cul-de-sac bulb) and proposed shared pathway located within the 'RE1 – Public Recreation' zone will comply with the land use requirements of that zone and its objectives.

3. The payment required by the conditions prior to the issuing of an occupation certificate as anticipated by the Planning Agreement executed on 29 September 2022 will make adequate provision for local infrastructure and matters covered by the applicable Contributions Plan.
4. Contamination issues for the broader site have been addressed and resolved with the assessment of the State Significant DA no. SSD-9522. The subject DA was supported by a Site Suitability Assessment Report which adequately addresses the issue of contamination remaining for this application. On that basis, the DA adequately addresses the relevant provisions of Chapter 4 of SEPP (Resilience and Hazards) 2021.
5. The development will comply with the applicable provisions of the *Mamre Road Precinct Development Control Plan 2021*. To that end the Panel notes the advice of Council staff that the approved development will be substantially consistent with the Mamre Road Precinct Structure Plan, the water cycle management strategy, and the local road network strategy.
6. The proposed subdivision layout will generally accord with the precinct road network and hierarchy, and the layout extending beyond the site under State Significant Development Consent No. 9522. Road infrastructure included in the development (including the 'Open Space Edge Road' and proposed 'shared pathway' if constructed in accordance with the proposed conditions) will complete the required local road network in conformity with the relevant DCP and Precinct Plan. The approved development will also see the introduction of a shared (pedestrian and cycle) pathway.
7. The DA is accompanied by a Bushfire Assessment Report prepared by a 'BPAD' / qualified Bushfire Risk Assessment Consultant. If the development complies with the recommendations of that report as required by the conditions, it is expected that the development will comply with Planning for Bushfire Protection 2019.
8. The proposal otherwise complies with the relevant provisions of applicable planning instruments including relevant provisions of SEPP (Precincts - Western Parkland City) 2021 (noting the proximity of the site to the 'Western Sydney Aerotropolis' for the reasons discussed in the assessment report).
9. The application was referred to three external authorities: -
  - (a) 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. The application was referred to Sydney Water and recommended conditions of consent have been provided.
  - (b) The application was referred to Transport for NSW under the '*Traffic Generating Development*' provisions of SEPP (Transport and Infrastructure) 2021, and Clause 2.35 of SEPP (Industry and Employment) 2021. Transport for NSW has provided concurrence for the development.
  - (c) The application was also referred to the Secretary of the Department of Planning as required by Clause 2.25 of SEPP (Industry and Employment) 2021. The Department of Planning and Environment had no comments in relation to compatibility of the development to which the application relates with the proposed transport infrastructure route concerned.
10. The Proposed development incorporates a number of ESD initiatives to reduce the consumption of potable water and greenhouse gas emissions of the future operations. Initiatives relate to: -
  - Transport;
  - Stormwater;
  - Building Materials;

- Water;
- Indoor Environment Quality;
- Noise;
- Energy Efficiency;
- Waste; and
- Land Use and Ecology Impact.

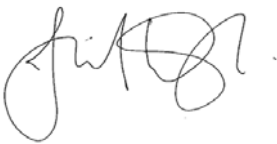

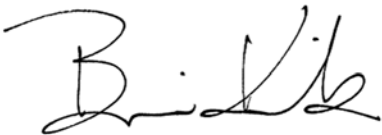
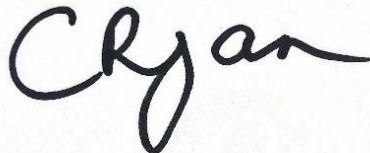

### CONDITIONS

The development application was approved subject to the conditions in the council assessment report but updated in discussion with the Applicant as recorded in the recommended conditions dated 3 August 2023.

Notably, the Applicant has recorded its agreement to those conditions by email from Willowtree Planning to Council dated 3 August 2023.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Justin Doyle (Chair)	 David Kitto
 Brian Kirk	 Carlie Ryan
 Ross Fowler	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-299 – Penrith – DA22/1172
2	PROPOSED DEVELOPMENT	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.
3	STREET ADDRESS	657-767 Mamre Road, Kemps Creek
4	APPLICANT/OWNER	Applicant: Willow Tree Planning/Altis Frasers JV Pty Ltd Owner: The Trust Company (Australia) Limited
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>○ State Environmental Planning Policy (Industry and Employment) 2021</li> <li>○ State Environmental Planning Policy (Planning Systems) 2021</li> <li>○ State Environmental Planning Policy (Precincts—Western Parkland City) 2021</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Mamre Road Precinct Development Control Plan 2021</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 25 July 2023</li> <li>• Council assessment memorandum: 4 August 2023</li> <li>• Written submissions during public exhibition: 0</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Final briefing to discuss council's recommendation: 31 July 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Brian Kirk, Carlie Ryan, Ross Fowler</li> <li>○ <u>Council assessment staff</u>: Robert Walker, Gavin Cherry</li> <li>○ <u>Applicant representatives</u>: Cameron Gray, Samantha Wilson, David Lousick, Philip Grech, Andrew Cowan</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report