

<b>SWCPP Ref. No.:</b>	PPSSWC-308
<b>DA No.:</b>	DA23/0053
<b>PROPOSED DEVELOPMENT:</b>	Construction and Use of Two Warehouse Buildings (Lot 4C & 4D) at Oakdale West Estate for Warehouse and Distribution Facility and Ancillary Works
<b>PROPERTY ADDRESS:</b>	119 Cuprum Close, KEMPS CREEK NSW 2178
<b>PROPERTY DESCRIPTION:</b>	Lot 119 DP 1281374,
<b>ZONING:</b>	SEPP - (WSEA) 2009 - ZONES IN1 + C2 ZONE NO 1(A)(RURAL A ZONE - GEN) (LEP 201)
<b>CLASS OF BUILDING:</b>	Class 7b , Class 5
<b>ASSESSING OFFICER</b>	Jacqueline Klincke
<b>APPLICANT:</b>	Goodman Property Services (Aust) Pty Ltd
<b>DATE RECEIVED:</b>	30 January 2023
<b>REPORT BY:</b>	Jacqueline Klincke, Development Assessment Planner, Penrith City Council
<b>RECOMMENDATIONS:</b>	Approve

## Assessment Report

### Executive Summary

Council is in receipt of a development application from Goodman Property Services Ltd Pty for the construction of 2 warehouses (Warehouses 4C and 4D), and their fit-out and use as '*warehouse and distribution centres*' with 24-hour operations, including associated offices, loading docks, parking areas, and stormwater and landscaping works at 119 Cuprum Close, Kemps Creek.

The site is located at the northern end of Precinct 4, and more commonly known as Lot 4C and Lot 4D, and forms part of the broader industrial precinct known as Oakdale West Estate, which was approved under SSD 7348 (as modified). The proposal complies with the specific requirements of the estate and is consistent with the approved Concept Plan, as approved under SSD 7348 MOD 12, noting the building layout of the warehouses and vehicular access points correlate to that of which is proposed under this application.

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

Key issues identified during the assessment of the application include:

- presentation to streetscape, public domain and impacts on passive surveillance,
- insufficient information detailing the stormwater overland flows from the cul-de-sac through the site,
- vehicle crossovers and inadequate clearances to stormwater infrastructure,
- conflict between truck egress and ingress on site, and
- inadequate trip generation rates.

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

address the outstanding matters.

The application was referred to Transport for NSW (TfNSW) for concurrence under Clause 1.22 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP) due to the development classified as traffic-generating development. A response from TfNSW was received on 3 March 2023 providing comments and advice for Council's consideration in the determination of the application. These comments and Council's response are discussed further within this report.

In addition, the application was referred to the Department of Planning and Environment (DPE) under Clauses 2.25 and 2.28 of the *State Environmental Planning Policy (Industry and Employment) 2021* due to the site located adjacent to the future Southern Link Road, and to confirm satisfactory infrastructure contributions have been issued. It is noted SSD 7348 (as modified) allows for the Southern Link Road and its alignment within the approved Concept Plan, and satisfactory arrangement were made under an executed planning agreement. Notwithstanding this, DPE have confirmed that the Satisfactory Arrangement Certificate for the site will be signed and issued on 17 May 2023.

Furthermore, the site is located directly adjacent to a Transgrid Easement. In this regard, the application was referred to Transgrid under Section 2.48 of the Transport and Infrastructure SEPP. A response was received on 10 March 2023 granting approval for the works adjacent to and near the transmission line.

In accordance with the *Penrith Development Control Plan 2014* and Council's *Community Engagement Strategy 2019*, the application was notified to surrounding properties and publicly exhibited between 20 February and 6 March 2023. No submissions were received in response.

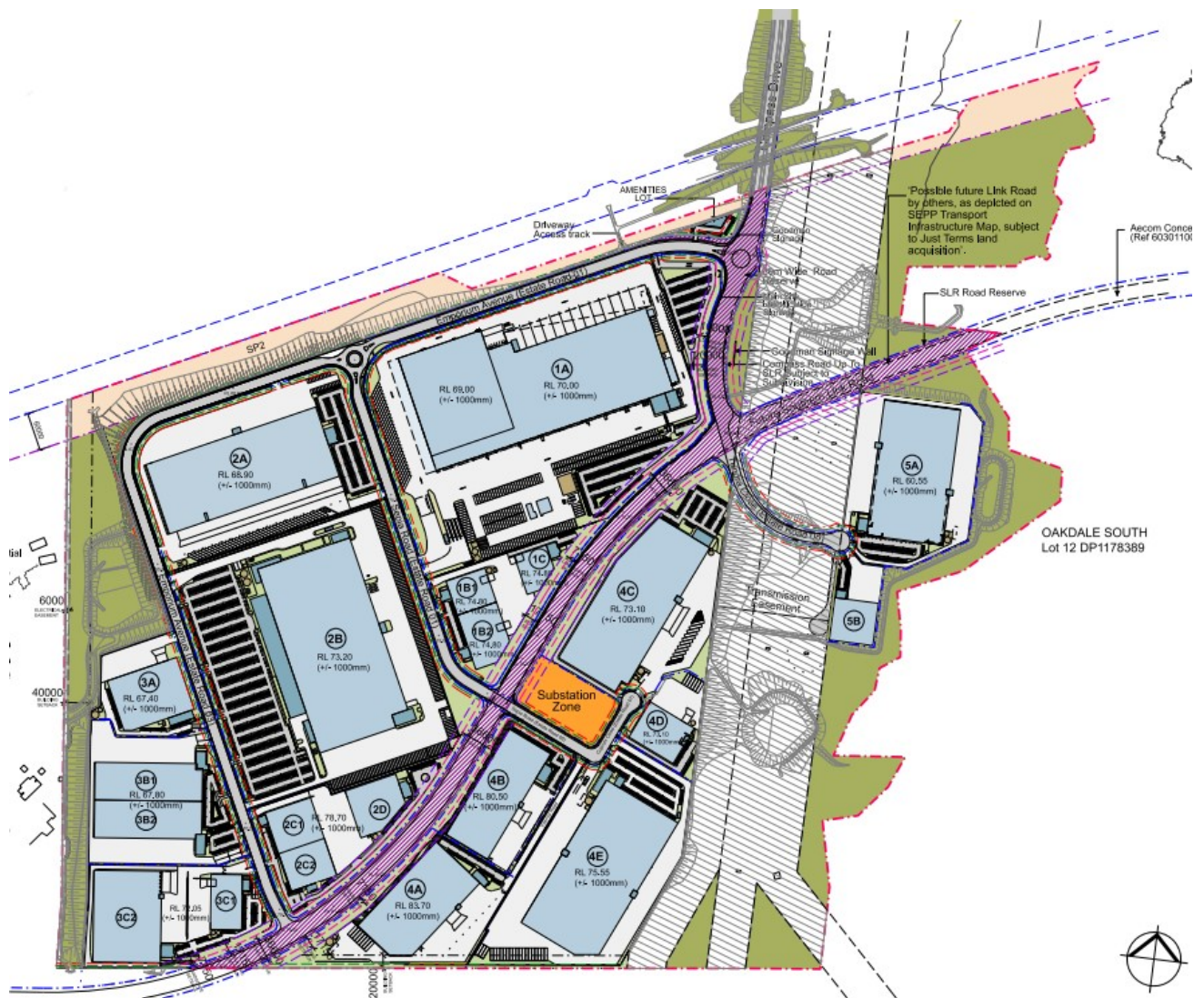
The proposal is identified as '*regionally significant development*' pursuant to Section 2.19 and under Schedule 6(2) of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP), as the Capital Investment Value (CIV) for the development exceeds \$30 million (i.e. \$55,968,000). It is noted the development is not classified as '*state significant development*', as the relevant amount for each warehouse is less than \$30 million. In this regard, in accordance with Division 2.4 of the *Environmental Planning and Assessment Act 1979*, the Sydney Western City Planning Panel is the consent authority for this application.

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

## Site & Surrounds

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The subject site is located at 119 Cuprum Close, Kemps Creek, specifically being Lots 4C and 4D which forms part of the broader industrial precinct known as Oakdale West Estate which was approved under a Concept Plan consent no SSD 7348 by the Department of Planning and Environment. SSD 7348 has been modified on numerous occasions, with the most recent modification (i.e. SSD 7348 MOD 12) approved by DPE on 6 April 2023 modifying the maximum ridgeline height for Warehouses 4C and 4D and the overall Concept Plan as seen in Image 1 below:



**Image 1:** Updated and Approved Concept Plan (SSD 7348 MOD 12)

**Source:** SBA Architects

Lots 4C and 4D are irregular in shape and is 77,281 sqm in total size. The site is clear of vegetation and is relatively flat, noting vegetation removal, infrastructure installation, bulk earthworks, site benching and road construction, were approved and have been undertaken in accordance with SSD 7348 (as modified). Access to Lots 4C and 4D are provided at the eastern side of the Cuprum Close cul-de-sac. Immediately north of the site is the future Southern Link Road (once constructed), and immediately south-east of the site is a transmission easement owned by Transgrid. Immediately south-west is the Endeavour Energy South Erskine Park Zone Substation.

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

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

An aerial image of the Oakdale West Estate, and the subject lots (i.e. Lots 4C and 4D) is provided below:





**Image 2:** Aerial Photograph, dated 3 February 2023

**Source:** NearMaps

## Proposal

The application proposes the construction of 2 separate warehouses (i.e. Warehouse 4C and Warehouse 4D), and includes their fit-out and general use as 'warehouse or distribution centres'.

Warehouse 4C comprises of the following:

- Warehouse that is 30,020m<sup>2</sup> in total floor area, with a maximum height of 14.6m
- Two-storey office space totalling 1,000m<sup>2</sup> in total size
- Two-level dock office measuring 200m<sup>2</sup>
- 12 on-grade loading socks and 8 recessed loading docks and truck parking
- 2 x dock awnings measuring 20m and 1 x dock awnings measuring 3m
- 136 car parking spaces, inclusive of 3 accessible spaces and 6 electric vehicle charging spaces
- 14 bicycle racks with end of trip facilities
- 2 x illuminated Goodman facade signs, 4 x non-illuminated tenant signs, 1 x illuminated car wayfinding pylon sign, and 1 x illuminated truck wayfinding pylon sign
- 24 hour, 7 days a week operations

Warehouse 4D comprises of the following:

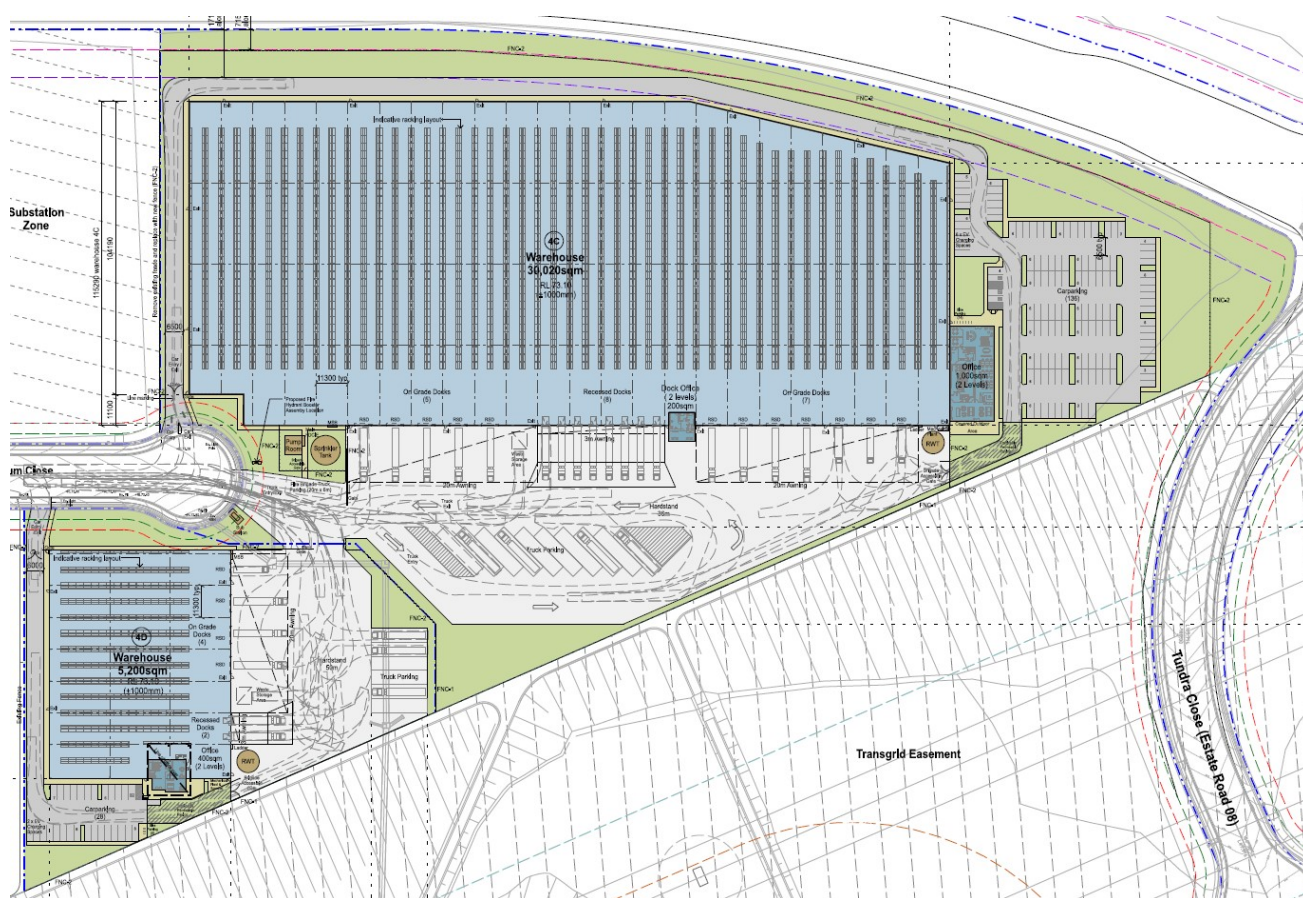
- Warehouse that is 5,200m<sup>2</sup> in total floor area, with a maximum height of 14.6m
- Two-storey office space totalling 400m<sup>2</sup>
- 4 on-grade loading docks and 2 recessed loading docks and truck parking

- 1 x 20m awning and 1 x 3m awning
- 28 car parking spaces, inclusive of 1 accessible space and 2 electric vehicle charging spaces
- 6 bicycle racks with end of trip facilities
- 1 x illuminated Goodman facade sign, 2 x non-illuminated tenant signs, 1 x illuminated car wayfinding pylon sign, and 1 x illuminated truck wayfinding pylon sign
- 24 hour, 7 days a week operations

The proposal also includes associated stormwater and landscaping works.

The tenants of each warehouse are currently unknown.

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



**Image 3:** Site Plan of Proposed Development

**Source:** SBA Architects

## Plans that apply

- Development Control Plan 2014
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Precincts—Western Parkland City) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021



## Planning Assessment

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

The land which specifically relates to the subject proposal (i.e. Precinct 4) is void of any noteworthy vegetation and accordingly the proposal will not result in any significant impacts on biodiversity values.

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

Therefore, the proposal is satisfactory in this regard.

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

The subject site is identified as bushfire prone land containing Vegetation Category 2 and a narrow band of Category 1 to the southeast of the lot, thereby representing potential grassland hazard which reflects the cleared land of the surrounding area. Subsequently, the application was accompanied by a Bushfire Risk Assessment, prepared by Blackash Bushfire Consulting which assessed the proposed development against the objectives of the Planning for Bush Fire Protection 2019 (PBP). The assessment determined that all four (4) objectives of the PBP will be satisfied and that adequate bushfire protection is provided, given the considerable separation of the warehouses from the nearest bushfire hazard and the inherent resilience of the buildings and overall design. In this regard, no further recommendations are required.

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

- **Section 4.15 - Evaluation**

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

- **Section 7.12 - Developer Contributions**

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

$1\% \times \$55,968,000$  (cost of construction works) = \$559,680.00.

In this regard, the amount of \$559,680.00 to be levied. This will be required via a condition of consent.

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

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

An assessment has been undertaken of the application against relevant criteria with the *State Environmental Planning Policy (Biodiversity and Conservation) 2021* and the application is satisfactory, subject to recommended conditions of consent. It is noted the subject site is not mapped on the Biodiversity Values Map, and is not mapped within the Cumberland Plain Conservation Plan.

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

### Chapter 2 Western Sydney employment area

#### **Clause 2.10 Zone objectives land use table**

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

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

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

It is considered that the proposal is consistent with the following objectives:

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

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

#### **Clause 2.17 Requirements for development control plans**

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

#### **Clause 2.19 Ecologically sustainable development**

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

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

#### **Clause 2.20 Height of buildings**

The site is not subject to a maximum building height adopted under the Industry and Employment SEPP. However, Conditions B10 and B11 of SSD 7348 (as modified) outlines the maximum height for Warehouses 4C and 4D is 15m. The proposed maximum ridge line height of both warehouses is 14.6m which therefore complies with the requirements of the condition.

#### **Clause 2.21 Rainwater harvesting**

The proposal provides for the harvesting of rainwater (including use for toilet flushing and irrigation).

#### **Clause 2.23 Development involving subdivision**

The proposal does not include subdivision.

#### **Clause 2.24 Public utility infrastructure**

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

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

The subject site is located adjacent to a proposed transport infrastructure route, being Southern Link Road. It is noted that SSD 7348 (as modified) allows for the Southern Link Road and its alignment has been based on the designs prepared by AECOM for the NSW Department of Planning and Environment (DPE). Notwithstanding this, the application was subsequently referred to the Department of Planning and Environment. A response was received on 28 February 2023 confirming the proposal will not interfere with the transport infrastructure route as vehicular access to the warehouse buildings is provided via Cuprum Close. Accordingly, the application has satisfied the requirements of Clause 2.25.

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

The subject site is located within an Industrial Release Area and therefore, the application was referred to DPE to confirm satisfactory arrangements have been made. DPE have confirmed a Satisfactory Arrangement Certificate for the site will be issued by the Minister's delegate on 17 May 2023. It is also noted that satisfactory arrangements were issued under SSD 7348 (as modified) via the a voluntary planning agreement (VPA) between Goodman Pty Ltd and the Minister for the Oakdale West Estate, and extends to the subject site. The executed VPA sets out the required satisfactory infrastructure contributions, including the provision of regional infrastructure and services. Accordingly, the application has satisfied Clause 2.28.

#### **Clause 2.30 Design principles**

The proposed warehouses are of a suitable design and construction standard that will not detract from the



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

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

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

#### **Clause 2.40 Earthworks**

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

#### **Clause 2.41 Development on flood prone land**

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

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

#### **Clause 2.44 Stormwater, water quality and water sensitive design**

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

### Chapter 3 Advertising and signage

The proposal includes the following signage for Warehouse 4C

- 2 x illuminated Goodman Facade signs
- 4 x non-illuminated tenant signs

The proposal includes the following signage for Warehouse 4D

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

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

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

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

### 3.1 Aims, objectives etc

(1) *This Chapter aims—*

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

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

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

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

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

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

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

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

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

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

Assessment Criteria	Response
<b>Character of the area</b>	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Complies.The proposed signage ensures compatibility with the desired character of the area as it will identify two future tenancies within the industrial estate and aids in wayfinding. The design of the signs is compatible with the proposed design of the warehouses reflected in materials and colour schemes.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	
<b>Special areas</b>	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	Complies. The proposal does not detract from any special areas. Precinct 4 is located far from sensitive receivers to the west and south of the OWE. The topography further limits visibility from sensitive receivers. Only one tenancy sign is oriented towards the riparian corridor to the east. This sign will not detract from the amenity or visual quality of the riparian corridor.
<b>Views and vistas</b>	

Does the proposal obscure or compromise important views?	Complies.The proposed signs do not obstruct any views or vistas. No sign protrudes above the maximum building height or compromises an important view.
Does the proposal dominate the skyline and reduce the quality of vistas?	
Does the proposal respect the viewing rights of other advertisers?	
<b>Streetscape, setting or landscape</b>	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Complies.The proposal is consistent with the streetscape, setting and landscape as it will identify the future Buildings 4C and 4D tenants and ancillary parking areas within the approved OWE.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage does not obscure, protrude or create unsightliness. There is no vegetation management associated with the proposed signag
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	
Does the proposal screen unsightliness?	
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	
Does the proposal require ongoing vegetation management?	
<b>Site and building</b>	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Complies.The proposed signage is compatible with the characteristics of the site and building as it provides wayfinding for the site and identification signage.
Does the proposal respect important features of the site or building, or both?	The proposed signage scheme, including number of signs per tenant, is similar of that approved for other buildings within the OWE
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	
<b>Associated devices and logos with advertisements and advertising structures</b>	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Complies.No associated devices proposed. The proposed signage is to be illuminated and will comply with the relevant Australian Standards
<b>Illumination</b>	

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

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

## State Environmental Planning Policy (Planning Systems) 2021

The proposal is identified as '*regionally significant development*' pursuant to Section 2.19 and under Schedule 6(2) of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP), as the Capital Investment Value (CIV) for the development exceeds \$30 million (i.e. \$55,969.00). In this regard, in accordance with Division 2.4 of the *Environmental Planning and Assessment Act 1979*, the Sydney Western City Planning Panel is the consent authority.

It is noted under Schedule 1 of the Planning Systems SEPP, a 'warehouse or distribution centre' at one location with a CIV of \$30 million or more is classed as State Significant Development. However, the relevant amount for each warehouse is less than \$30 million. Notwithstanding this, the Oakdale West Estate concept approval; under SSD 7348 also states:

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

As the capital investment value for each warehouse is less than \$50 million, the proposed development is not declared to be State Significant Development.



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

### **Chapter 4 Western Sydney Aerotropolis**

#### **Section 4.19 Wildlife hazards**

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

#### **Section 4.22 Airspace operations**

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

## **State Environmental Planning Policy (Resilience and Hazards) 2021**

### **Chapter 3 Hazardous and offensive development**

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

### **Chapter 4 Remediation of Land**

Pursuant to Clause 4.6 of the Resilience and Hazards SEPP, development consent must not be granted unless consideration has been given to whether the land is contaminated. Contamination for the Oakdale West Estate (including Lots 4C and 4D) was addressed and resolved as part of the Stage 1 development and approved Concept Plan under SSD 7348 whereby the site was assessed to be generally suitable for commercial and industrial purposes. Notwithstanding this, a standard of condition of consent is recommended requiring an unexpected finds protocol. In this regard, the subject site is considered to be suitable for the proposed development.

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

### 2.48 Determination of development applications - other development

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

A response from TransGrid was received on 10 March 2023 granting approval for the works adjacent and near the transmission line easement, subject to conditions. Adherence to these conditions are ensured via a recommended condition of consent.

In addition, the subject site is located directly adjacent to Endeavour Energy's South Erskine Park Zone Substation. In this regard, conditions of consent is recommended requiring the proponent to liaise with Endeavour Energy for any activity that may occur within the substation zone, and to adhere to several technical guidelines during the construction phase.

### 2.122 Traffic-generating development

Section 2.121 requires that DAs for certain traffic generating development, as set out in Schedule 3 of the policy, be referred to Transport for NSW (TfNSW) and that any submission from TfNSW be considered prior to the determination of the application. In accordance with the Transport and Infrastructure SEPP, warehouse and distribution development of 8,000m<sup>2</sup> or greater in size require referral to TfNSW. The DA is therefore required to be referred to TfNSW.

A response from TfNSW was received on 3 March 2023, and the following comments and advice were provided for Council's consideration in the determination of the application:

<b><u>TfNSW Comment</u></b>	<b><u>Council Response</u></b>
<i>TfNSW raises concerns with regard to the adopted trip generation rate. The adopted trip generation rate for this development of 1.892 vehicles per day per 100sqm of GFA is considered very low. The various land-use changes within the Western Sydney Employment Area (WSEA) have meant that the current adopted trip generation rate is 2.91, which is much higher than what has been used to assess this development. An assessment based on the lower trip generation rate of 1.892 is likely to have adverse impacts on the network in the future.</i>	Detailed modelling was undertaken as part of the assessment of SSD 7348, and the trip generation rate used in the traffic modelling is consistent with what was adopted for the approved Concept Plan under the state significant development consent. It is also noted that the approved Concept Plan under SSD 7348 (as modified) restricts the gross floor area of development within the estate, including Precinct 4. The total ground floor area of Precinct 4 does not exceed the prescribed limits. In this regard, the development of Precinct 4 is considered to not result in an overall increase in trip generation.

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

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

### Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	Complies - see Appendix - Development Control Plan Compliance
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
C14 Urban Heat Management	Does not comply - see Appendix - Development Control Plan Compliance
E6 Erskine Business Park controls	Complies - see Appendix - Development Control Plan Compliance

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

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

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

**Prescribed Conditions**

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

**Advertising and Notification**

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

**Owners Consent**

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

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

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

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

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

The site is benefited by an SSD approval which has provided for roads, drainage, services, noise walls, vegetation removal and planting, and earthworks. The site has been identified for industrial development and the proposal aligns with the SSD Concept Plan under SSD 7348 MOD 12, which has considered impacts to surrounding sensitive receivers. In this regard, the site is considered suitable for the proposed development.

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

In accordance with Appendix F2 of the *Penrith Development Control Plan 2014* and Council's *Community Participation and Community Engagement Strategy 2019*, the application was notified to surrounding property owners and publicly exhibited between 20 February and 6 March 2023. No submissions were received in response.

**Referrals**

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



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

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

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

## Conclusion

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

- The site is zoned IN1 - General Industrial pursuant to the *State Environmental Planning Policy (Industry and Employment) 2021* and 'warehouse or distribution centres' are permitted with consent within the IN1 zone.
- The proposed development is considered to meet the objectives of the IN1 zone.
- The proposal satisfactorily responds to key planning considerations, such as in relation to urban design, public amenity, built form, traffic, heavy vehicle manoeuvring, car parking, the natural environment and landscaping, subject to the inclusion of the recommended conditions.
- The proposal is consistent with the approved Concept Plan and adheres to the relevant conditions and requirements under SSD 7348 MOD 12.
- It is considered that the proposal will not provide for any significant adverse or unreasonable impacts on the surrounding area.
- Issues which were raised during the assessment of the application have been adequately addressed.

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

## Recommendation

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That DA23/0053 for the construction and use of two (2) warehouse and distribution centres with ancillary signage, offices, parking, landscaping and stormwater works, at 119 Cuprum Close, Kemps Creek (Lots 4C and 4D), be approved, subject to the following recommended conditions of consent.

## CONDITIONS

### General

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

<b>Plan No.</b>	<b>Plan Title</b>	<b>Prepared By</b>	<b>Revision</b>	<b>Date</b>
DA00	Cover Sheet	SBA Architects	D	19.01.2023
DA01	Office Perspectives	SBA Architects	E	19.01.2023
DA10	Site & Warehouse Plan	SBA Architects	D	19.01.2023
DA11	Roof Plan	SBA Architects	D	19.01.2023
DA15	4C Office Floor Plans	SBA Architects	E	19.01.2023
DA16	4D Office Floor Plans	SBA Architects	E	19.01.2023
DA20	4C Warehouse Elevations & Section	SBA Architects	D	19.01.2023
DA21	4D Warehouse Elevations & Section	SBA Architects	D	19.01.2023
DA22	4C Office Elevations	SBA Architects	D	19.01.2023
DA23	4D Office Elevations	SBA Architects	D	19.01.2023
DA24	4C Dock Office Plans & Elevations	SBA Architects	C	20.12.2022
DA30	Signage Plan	SBA Architects	D	19.01.2023
<b>Civil Plans</b>				
15-272-C7900	Cover Sheet Drawing List Locality Plan	AT&L	P7	02.03.2023
15-272-C7901	General Notes	AT&L	P7	02.03.2023
15-272-C7905	General Arrangement Plan	AT&L	P8	27.03.2023
15-272-C7910	Typical Sections Sheet 1	AT&L	P7	02.03.2023
15-272-C7911	Typical Sections Sheet 2	AT&L	P7	02.03.2023
15-272-C7912	Typical Sections Sheet 3	AT&L	P7	02.03.2023
15-272-C7913	Typical Sections Sheet 4	AT&L	P7	02.03.2023
15-272-C7914	Typical Sections Sheet 5	AT&L	P7	02.03.2023
15-272-C7915	Bulk Earthworks	AT&L	P7	02.03.2023
15-272-C7920	Siteworks and Stormwater Drainage Plan Sheet 1	AT&L	P7	02.03.2023
15-272-C7921	Siteworks and Stormwater Drainage Plan Sheet 2	AT&L	P7	02.03.2023

15-272-C7922	Siteworks and Stormwater Drainage Plan Sheet 3	AT&L	P7	02.03.2023
15-272-C7923	Siteworks and Stormwater Drainage Plan Sheet 4	AT&L	P8	27.03.2023
15-272-C7924	Siteworks and Stormwater Drainage Plan Sheet 5	AT&L	P7	02.03.2023
15-272-C7925	Siteworks and Stormwater Drainage Plan Sheet 6	AT&L	P7	02.03.2023
15-272-C7926	Siteworks and Stormwater Drainage Plan Sheet 7	AT&L	P7	02.03.2023
15-272-C7930	Pavement Plan	AT&L	P7	02.03.2023
15-272-C7935	Retaining Wall General Arrangement Plan	AT&L	P7	02.03.2023
15-272-C7936	Retaining Wall Profiles	AT&L	P7	02.03.2023
15-272-C7940	Erosion and Sediment Control Plan	AT&L	P7	02.03.2023
15-272-C7941	Erosion and Sediment Details	AT&L	P7	02.03.2023
<b>Landscape Plans</b>				
L.SK.00	Cover Sheet	Scape Design	D	30.03.2023
L.SK.01	Landscape Sketch Plan - Lot 4CD	Scape Design	E	30.03.2023
L.SK.02	Planting Plan - Lot 4CD	Scape Design	C	30.03.2023
L.SK.03	Planting Schedule - Lot 4CD	Scape Design	C	30.03.2023
L.SK.04	Character & Materials	Scape Design	B	23.01.2023
L.SK.105	Landscape - Detailed Plan and Notes	Scape Design	E	30.03.2023
L.SK.200	Carpark Details	Scape Design	C	21.01.2023
L.SK.201	Landscape Sections Sheet 1	Scape Design	B	30.03.2023
L.SK.202	Landscape Sections Sheet 2	Scape Design	B	30.03.2023

- Bushfire Risk Assessment, prepared by Blackash Bushfire Pty Ltd, Version 1.0, dated 10 January 2023
- Biodiversity Impact Statement, prepared by ecologique, revision 3, dated 16 January 2023.
- BCA Assessment Report, prepared by Blackett Maquire + Goldsmith, revision 3, dated 19 January 2023
- Air Quality Impact Assessment, prepared by SLR Consulting, dated 16 January 2023
- Civil Report, prepared by AT&L, Issue 2, dated 11 January 2023
- Sustainability Management Plan, prepared by SLR Consulting, v1.0, dated 18 January 2023
- Transport Assessment, prepared by ason group, revision III, dated 19 January 2023
- Waste Management Plan, prepared by SLR Consulting, v3.0, dated 11 January 2023
- Fire Safety Strategy, Affinity Fire Engineering, revision 03, dated 22 December 2022
- Noise Vibration Assessment, prepared by RWDI Australia, Version B, dated 15 December 2022

- 2 The development is required to comply with the conditions and requirements outlined within the approval letter received from Transgrid, dated 10 March 2023.
- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 The approved operating hours for Warehouse 4C is 24 hours, 7 days a week.  
  
The approved operating hours for Warehouse 4D is 24 hours, 7 days a week.
- 5 The approved use of each building is for Warehouse or Distribution Facilities. No approval is granted for the use of the site as a hazardous or offensive storage establishment or a hazardous or offensive industry, as defined under the *State Environmental Planning Policy (Resilience and Hazards) 2021*.
- 6 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 7 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 8 **A Construction Certificate** shall be obtained prior to commencement of any building works.
- 9 The approved development, the subject of this development consent, is not to contravene the State Significant Development consent 7348 (as modified) or the relevant Planning Agreement. The onus is on the landowner and proponent to ensure that the SSD 7348 (as modified) conditions and Planning Agreement obligations are met.
- 10 The installation of the approved signage shall be carried out strictly in accordance with the manufacturer's specifications. Any wiring or installation fixtures associated with the signage or internal illumination shall be contained wholly within the body of the signage and not be visible from the public domain.'



- 11 **Prior to the issue of a Construction Certificate**, the relevant construction certificate plans shall demonstrate the installation of a minimum 1,300 kW solar panel system (i.e. 1,000 kW for Lot 4C and 300 kW for Lot 4D).

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

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

- 12 The proponent shall seek approval from Endeavour Energy for any activities that may occur within the substation zone.

- 13 During the construction phase of the development, the proponent shall have regard to, and adhere to the following technical guidelines issued by Endeavour Energy:

- Work Near Underground Assets - Guide, Safework NSW, 2007
- Electrical Safety for Building and Construction Workers, Endeavour Energy
- Underground Cable Easement Approved Conditions, Endeavour Energy, 10/03/2020
- Easements and Property Tenure, Endeavour Energy, 6 March 2017
- Safety on the Job, Endeavour Energy
- Safety Plan for Plumbers, Endeavour Energy

## **Environmental Matters**

- 14 Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.

- 15 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

16 An appropriately qualified person/s shall:

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

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

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

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

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

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

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

- 19 Waste materials associated with the construction phase of the development are to be classified and disposed of at a lawful waste facility, or, if suitable, re-used or recycled in accordance with the approved Waste Management Plan.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 20 Noise levels from the premises (including all associated plant and equipment) shall not exceed the relevant noise criteria detailed in the Noise and Vibration Assessment, prepared by RWDI, dated 15 December 2022, and consent SSD 7348-MOD12. A Certificate is to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate**.

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

The CEMP is to address, but is not limited to the following:

- Water quality management,
- Noise control and hours of operation,
- 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 CEMP.

- 22 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 (Resilience and Hazards) 2021. 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.

## **BCA Issues**

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

24 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
- is shown to be at least equivalent to the deemed to satisfy provision, or

(c) a combination of (a) and (b).

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

## Health Matters and OSSM installations

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

## Utility Services

26 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 an Occupation Certificate.**

27 **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.

28 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997;
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

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

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

## Construction

29 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.

30 Prior to the commencement of construction works:

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

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

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

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

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

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

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

31 The rainwater tank(s) is to be:

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

Additionally, the following are to be provided:

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

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

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

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

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

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

- 34 The rainwater tank supply must not be connected to drinking and bathing water tap outlets.
- 35 The rainwater tank pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.
- 36 Construction works that are carried out in accordance with approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- Mondays to Fridays, 7am to 6pm
  - Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
  - No work is permitted on Sundays and Public Holidays.

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

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

## Engineering

- 37 All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.
- 38 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council **prior to commencement of any works on site or prior to the issue of any Construction Certificate**, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

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

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



- 39 Lodgment 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:
  - i. Utilities (water, sewer, power, telecommunications)
  - ii. Private stormwater connections to the kerb (including stormwater connection to Penrith City Council owned drainage)
  - iii. 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.
- f) Operation of a tower crane over the road reserve
- g) 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.**
- 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.

- 40 The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by AT&L, reference number 15-272-C7900 to C7941, revision P8, dated 27/3/23.

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

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

- 41 **Prior to the issue of any Construction Certificate**, the Certifier shall ensure that overland flows are appropriately conveyed through the site.

- 42 **Prior to the issue of any Construction Certificate**, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with Penrith City Council's Development Control Plan, AS2890.1, AS2890.2 and AS2890.6.

- 43 **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 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.

- 44 **Prior to the issue of any Occupation Certificate**, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

- 45 **Prior to the issue of an Occupation Certificate**, works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments.

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

46 **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):

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

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

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

48 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s.

49 **Prior to the issue of Construction Certificate**, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with Penrith City Council's Development Control Plan, AS2890.1, AS2890.2 and AS 2890.6.

50 **Prior to the issue of construction certificate**, The certifier shall ensure that:

- a) Off-street access and parking comply with Penrith City Council's Development Control Plan and AS 2890.1.
- b) Vehicular access and internal manoeuvring have been designed for a B-Double vehicle in accordance with AS2890.2.
- c) The driveway width can accommodate swept path movements of the largest vehicle accessing the site and has been designed in accordance with AS2890.2.
- d) Sight distance requirements are in accordance with AS2890.2, Figure 3.3 and Figure 3.4.
- e) Accessible travel paths of travel from all car parking spaces to the lifts and stairs have been provided.

- 51 **Prior to the commencement of any works on-site**, 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.
- 52 **Prior to the issue of Construction Certificate**, the certifier shall ensure that all vehicles accessing the site can enter and exit from/ to the public road access in a forward direction. Any turning movements to comply must be in accordance with AS 2890 for the relevant vehicle.
- 53 All parking spaces, loading zones, parking aisles and manoeuvring areas are to be kept clear of stored material, products and waste material such that these areas remain unobstructed and allow for the safe movement of vehicles.
- 54 Subleasing of car parking spaces is not permitted by this consent. No parking is permitted outside of marked parking spaces shown on the approved plans.
- 55 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
- 56 Vehicles servicing the site shall be limited in size to a 26m B-Double.
- 57 **Prior to issue of an Occupation Certificate**, an Operational Traffic Management Plan (OTMP) to be prepared and submitted to Council for review in regard to the following traffic control measures which are proposed to be implemented:
- A reduced speed limit along the right of way and internal access road (10km/hr);
  - Convex mirrors placed around the shared heavy vehicle access road to improve visibility to oncoming vehicles; and
  - Signage and line marking to guide heavy vehicles in performing lane correct manoeuvres.

## Landscaping

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

Landscaping shall be maintained:

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

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

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

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

60 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.

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

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

## Development Contributions

63 This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan. Based on the identified cost of the development, a contribution of **\$559,680.00 is to be paid to Council prior to a Construction Certificate** being issued for this development. Council should be contacted prior to payment to verify the contribution payable. The Section 7.12 Contributions Plan is available on Council's website.

## Certification

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

(a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and

(b) submit a Notice of Commencement to Penrith City Council.

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

### Information to accompany the Notice of Commencement

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

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

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

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

# **Appendix - Development Control Plan Compliance**

## **Development Control Plan 2014**

### **Part C - City-wide Controls**

#### **C6 Landscape Design**

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

#### **C9 Advertising and Signage**

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

Proposed illuminated signage will be constructed in accordance with the relevant Australian Standard to ensure that they do not detract from the building during daylight or impact driver sightlines or view. The illumination of the signs is not anticipated to be any adverse impacts to sensitive receivers, noting the nearest residential receiver is located greater than 700m to the south and the topography of the land further limits visibility. Only one tenancy sign is oriented towards the riparian corridor to the east. This sign will not detract from the amenity or visual quality of the riparian corridor

It is noted that the details for the business identification / tenancy signs are yet to be nominated. However, conditions of consent are recommended ensuring the installation of the approved signage shall be carried out strictly in accordance with the manufacturer's specifications. Any wiring or installation fixtures associated with the signage or internal illumination shall be contained wholly within the body of the signage and not be visible from the public domain.

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

#### **C10 Transport, Access and Parking**

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

- 1 space per 300m<sup>2</sup> of warehouse GFA
- 1 space per 40m<sup>2</sup> of office GFA
- 2 spaces for disability parking for every 100 car parking spaces

In this regard, Warehouse 4C requires a total of 131 car parking spaces and 1 accessible spaces. A total of 105 car parking spaces, including 3 accessible spaces are provided and therefore complies.

Warehouse 4D requires 28 car parking spaces. A total of 28 car parking spaces, inclusive of 1

accessible space are provided which complies.

## **C12 Noise and Vibration**

Both warehouses propose to operate 24 hours, 7 days a week, and noise limits have been determined for the site under the conditions of consent for SSD 7348 (as modified). A Noise and Vibration Assessment, prepared by RWDI, accompanied the application, concluding that the operation of Warehouses 4C and 4D is predicted to comply with the relevant operational noise criteria, and the relevant conditions under SSD 7348 (as modified). Council's Environmental Management section reviewed the assessment raised no objections.

## **C14 Urban Heat Management**

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

Therefore, a variation to the 40% canopy coverage is considered acceptable in this instance and the proposed canopy coverage of 18% is supported.

## **E6 Erskine Business Park**

### **6.2 Subdivision**

Subdivision is not proposed under this application.

#### **6.3.1 Height**

As per this section of the DCP, *the maximum height for buildings... shall not exceed 15m*. It is also noted Condition B10 of SSD 7348 (as amended) also outlined a maximum height of 15m. The maximum ridge height for both warehouses is 14.6m (excluding solar panels and mechanical plant). In this regard, the proposal complies.

#### **6.3.2 Site Coverage**

Under this section, *site coverage shall not exceed 50% (unless otherwise specific below)*. However, Condition B10 of SSD 7348 (as modified) outlines a maximum site coverage of 65% which prevails over the DCP controls. Notwithstanding this, the proposed site coverage is 48% which does comply.

#### **6.3.3 Setbacks**

This section outlines the following applicable setback requirements:

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



However, these setbacks have since been amended under Condition B10 of SSD 7348 MOD 12 as follows:

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

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

#### **6.3.4 Urban Design**

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

#### **6.3.5 Signage and Estate Entrance Walls**

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

#### **6.3.7 Fencing**

Palisade fencing is proposed throughout Precinct 4 which is a suitable fencing type and is adequately located behind the proposed landscaping.

#### **6.3.9 Transmission Line Easement**

Precinct 4 is located adjacent to the Transmission Line Easement and the proposal includes the construction of a fire brigade access road on the edge of the easement. The application was subsequently referred to TransGrid who approved the proposal, subject to conditions of consent.