

SWCPP Ref. No.:	PPSSWC-309
DA No.:	DA23/0067
PROPOSED DEVELOPMENT:	Construction of Two (2) Warehouse and Distribution Facilities with 24-hour operations including Earthworks, Creek Realignment, Road Construction, Signage, Landscaping, Stormwater Works, Services and Ancillary Works. and Three (3) Lot Torrens Title Subdivision
PROPERTY ADDRESS:	771 - 781 Mamre Road, KEMPS CREEK NSW 2178 783 - 797 Mamre Road, KEMPS CREEK NSW 2178
PROPERTY DESCRIPTION:	Lot 24 DP 258414, Lot 23 DP 258414,
ZONING:	
CLASS OF BUILDING:	Class 7b , Class 5
ASSESSING OFFICER	Jacqueline Klincke
APPLICANT:	Gpt Platform Pty Ltd
DATE RECEIVED:	1 February 2023
REPORT BY:	Jacqueline Klincke, Senior Development Assessment Planner, Penrith City Council
RECOMMENDATIONS:	Approve

Assessment Report

Executive Summary

Council is in receipt of a development application from GPT Platform Pty Ltd for the construction of two (2) warehouse and distribution facilities with 24-hour operations, including earthworks, creek realignment, road construction, signage, landscaping, stormwater and associated works, and three (3) lot subdivision at 771-797 Mamre Road, Kemps Creek (Yiribana Logistics Estate West).

The front portion of the site forms part of the broader Mamre Road Precinct which is a strategically rezoned area for world-class industrial development, primarily catering for warehousing and logistics to support the future operations of the Western Sydney Airport and surrounds. The rear portion of the site is located within the Western Sydney Aerotropolis. The proposed development is located wholly within the portion of the site that is within the Mamre Road Precinct and the proposal therefore largely adheres to the Mamre Road Precinct Structure Plan and Road Hierarchy.

Under the *State Environmental Planning Policy (Industry and Employment) 2021* (Industry and Employment SEPP), the development site is zoned SP2 Infrastructure, IN1 General Industrial, and RE1 Public Recreation. These zones correlate to the future road widening of Mamre Road, industrial land, and an existing riparian corridor respectfully. The proposed 'warehouse and distribution facilities', 'identification signs', and 'roads' are permissible in their respective zones, subject to development consent.

Key issues identified during the assessment of the application include:

- Adherence to the Mamre Road Precinct Stormwater Scheme Plan,

- Design and connection of the collector industrial road at the northern and southern ends,
- Building separation,
- Oversized signage,
- Pedestrian safety between car and truck driveways,
- Overland flow flooding impacts,
- Undersized adopted trip generation rates,
- Clarification on proposed remediation strategies,
- Acoustic impacts to adjoining land, and
- Vegetation management of realignment of creek.

The applicant was notified of these issues and subsequently, additional information was provided which has satisfactorily addressed the outstanding matters.

The development application is nominated 'integrated development', by virtue of Section 4.46 of the *Environmental Planning and Assessment Act 1979*, requiring a Controlled Activity Approval on waterfront land under Section 91 of the *Water Management Act 2000*. The proposed development involves works within 40m of a 2nd order strahler watercourse, including its realignment. Therefore, the application was referred to the Department of Climate Change, Energy, the Environment and Water (previously Department of Planning and Environment - Water). Concurrence, dated 2 April 2024 was received granting approval for the creek realignment with General Terms of Approval (GTAs) provided. The GTAs have formed part of this assessment and recommended conditions of consent.

In accordance with Clause 2.25 of the Industry and Employment SEPP, the application was referred to the Secretary of Planning for concurrence as the site fronts Mamre Road which is marked as 'Proposed Road' and is planned to be widened future. On 14 June 2023, a response was received confirming the SP2 zoned land along the site's frontage is identified for acquisition associated with proposed upgrades to Mamre Road, and that the proposed development does not interfere with the proposed transport infrastructure route, particularly noting vehicular access is provided via the north/south industrial collector road and not Mamre Road (where it adjoins the site).

Furthermore, the application was referred to Transport for NSW (TfNSW) under Clause 2.35 (development within the Mamre Road Precinct) of the Industry and Employment SEPP and Section 2.122 (traffic-generating development) of the Transport and Infrastructure SEPP. Correspondence was received from TfNSW raising no objections to the development on traffic and transport grounds.

In addition, the site and proposed development must connect to Sydney Water's Stormwater Scheme for the Mamre Road Precinct, also noting Sydney Water is also the regional stormwater management authority for the precinct. Therefore, the application was referred to Sydney Water for review and endorsement. After several iterations, the proposed water management strategy for the site is considered acceptable, with future detailed plans and information to be submitted to Sydney Water and Council regarding erosion and sediment plans, stormwater system and trunk drainage corridor, and to ensure the development connects to the regional scheme once it becomes operational. This is ensured via recommended conditions of consent.

In accordance with Council's *Community Participation and Community Engagement Strategy 2022*, the application was notified to surrounding property owners and publicly exhibited between 20 February and 21 March 2023. No submissions were received.

The proposal is defined as '*regionally significant development*' pursuant to Section 2.19 and 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. \$31,488,464 exc. GST). 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 (SWCPP) is the consent authority for this application. The application was briefed to the SWCPP on 8 May 2023 and matters raised for further consideration include adherence to Sydney Water's Mamre Road Precinct Stormwater Scheme Plan, the design and delivery of the Open Space Edge Road, and the delivery of the Collector Road. These matters are considered to be resolved, as discussed throughout this report.

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

Site & Surrounds

The subject site is located at 771-797 Mamre Road, Kemps Creek and comprises of two (2) lots being Lot 23 in DP258414 and Lot 24 in DP258414, and is situated on the western side of Mamre Road.

The front portion of the site is located within the Mamre Road Precinct (MRP) of the Western Sydney Employment Area (WSEA), which is progressively being developed for employment generating industrial purposes, with warehouses and distribution centres being the predominate land use. The proposed development is located within the front portion of the site and is wholly sited within the land that forms part of the *Mamre Road Precinct Development Control Plan 2021*. As demonstrated in Figure 1 below, the site is subject to the Mamre Road Precinct Structure Plan. The rear portion of the site is located within the Western Sydney Aerotropolis, however is not proposed to be developed upon under this application.

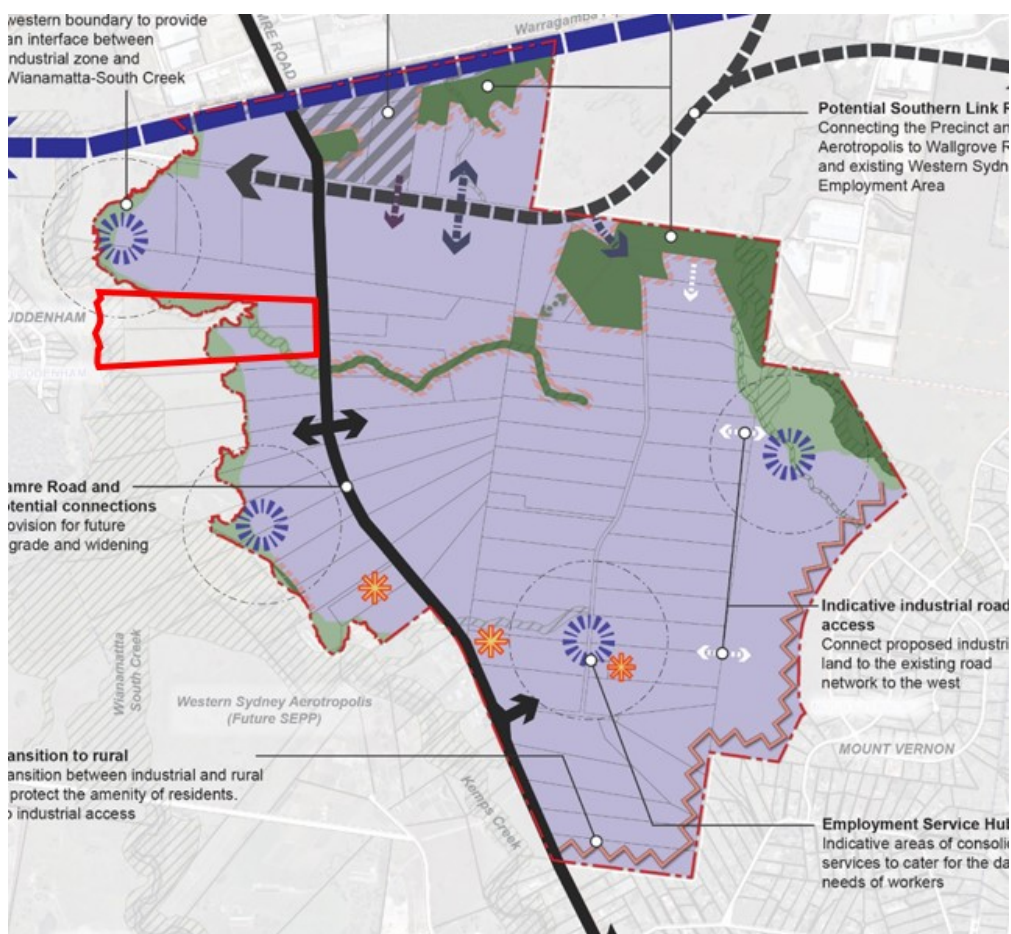


Figure 1: Mamre Road Precinct Structure Plan with Site Highlighted, from Figure 12 of the MRP DCP.

Source: Mamre Road Precinct Development Control Plan 2021

The site as a whole is 385,386m² in total land area, with a combined frontage width to Mamre Road of 28m. A tributary of South Creek runs through the site, with some scattered native vegetation located along the South Creek Corridor (i.e. along the western extent of the subject site and outside of the subject development site). The land is predominately cleared of vegetation and covered with pastured grasses. However, there is native vegetation consisting of small trees of River-Flat Eucalypt Forest and Cumberland Plain Woodland Derived Native Grassland, which are highly degraded. The site also contained three (3) dwellings and associated structures, however these were in 2022.

An aerial image of the site and surrounding locality is provided below:



Figure 2. Aerial Image, dated 30 March 2024.

Source: NearMaps

It is noted that as per Sydney Water's Mamre Road Flood, Riparian Corridor and Integrated Water Cycle Management Strategy, the site will accommodate a future Sewage Pumping Station 1221 Sydney Water Asset.

The future character of the immediate area has been defined by the recent rezoning of the MRP, resulting in the gradual change of character from rural residential to industrial development. Directly to the north of the site is a new 91 hectare industrial estate known as The Yards which is currently under construction and approved under State Significant Development (SSD-9522), comprising of a combination of warehouse and distribution facilities, manufacturing facilities and data storage facilities. Directly south at 799-803 Mamre Road is a site currently being used as a truck and shipping container storage premises. A State Significant Development application (SSD-30871587) has been lodged for the site further south at 805-817 Mamre Road for two (2) warehouse and distribution facilities. Located on the eastern side of Mamre Road is the Aspect Industrial Estate approved under

SSD-10448 and the recently approved Yiribana Logistics Estate under SSD-10272349 whereby construction has not yet commenced.

Proposal

The application, as amended, proposes the construction two (2) warehouse and distribution facilities and comprises of the following components:

Site Preparation

- Removal of vegetation and trees along the eastern extent of the site, including approximately 0.06 hectares of native species, and 0.71 hectares of exotic species.
- Dewatering of existing dams.
- Bulk earthworks to provide building pads, facilitate road construction and site access, and stormwater drainage.
- Construction of retaining walls along the western boundary and between development lots - maximum height of 3m.
- Reconstruction and rehabilitation of the riparian corridor.

Subdivision

- Subdivision of two (2) lots into three (3) lots including:
 - Lot 1 - industrial lot = 53,779m²
 - Lot 2 - balance lot (future staged land to the west) = 312,064m²
 - Lot 3 - RE1 corridor = 5129m². The dedication of this land to Council is deferred.
- The proposal also includes the creation of the following easements:
 - 11m wide easement for future SP1221
 - 18m wide trunk drainage corridor
 - temporary easement for access at the southern end of the collector road (i.e. cul-de-sac)
- The application also seeks SP2 road dedication to TfNSW as per Clause 2.27 of the Industry and Employment SEPP.

Roads and Infrastructure Delivery

- Interim stormwater management works including temporary water reuse infrastructure such as high efficiency sediment basins, bioretention systems and rainwater tanks during the construction phase. As lots are developed, the site will transition and connect to Sydney Water's Regional Stormwater Scheme including purple pipe work, with future infrastructure designs to be completed at detail design stage. Conditions of consent from Sydney Water have been recommended in this regard.
- Minor alteration to the alignment of existing watercourse.
- Conversion of existing cul-de-sac in adjoining northern property (i.e. The Yards) and extension of north-south Industrial Collector Road with interim cul-de-sac along southern boundary for future connection.
- Delivery of utility infrastructure including electricity, gas and telecommunications.

Warehouse Construction and Associated Structures

- Warehouse 1:
 - Total of 10,207m² in floor area, with a maximum height of 14.6m
 - Two-storey office totalling 405m²
 - 4 x recessed loading docks under a 3m awning, and 7 on-grade loading socks covered by a 20m awning with dock office
 - 46 car parking spaces, 3 electrical vehicle charging spaces and 11 bicycle parking spaces
 - 2 x business identification signage zones (measuring 11m x 2.5m) - one (1) sign on each eastern and western

facade of the building

- 24 hour, 7 days a week operations

- Warehouse 2:

- Total of 10,185m² in floor area, with a maximum height of 14.6m

- Two-storey office totalling 405m²

- 4 x recessed loading docks under a 3m awning, and 7 on-grade loading socks covered by a 20m awning with dock office

- 46 car parking spaces, 3 electrical vehicle charging spaces and 14 bicycle parking spaces

- 2 x business identification signage zones (measuring 11m x 2.5m) - one (1) sign on each eastern and western facade of the building

- 24 hour, 7 days a week operations

- The driveway for car parking is shared between both warehouses, however each warehouse is serviced by separate truck entry/exits

- Landscaping works and tree canopy planting

- Signage:

- 1 x 2m x 10m Estate Signage

- 2 x 0.8m x 2.1m tenant car parking wayfinding pylon signs

- 2 x 1.5m x 3.3m truck entry/exit wayfinding pylon signs

The Site Plan of the proposed development is provided in Figure 3 below:

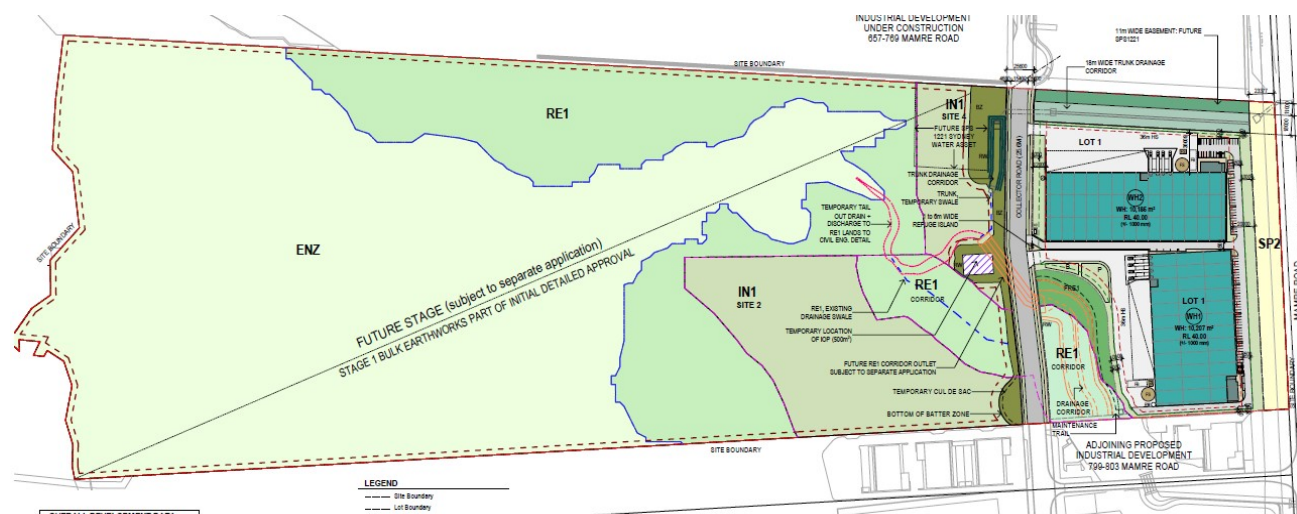


Figure 3. DA Site Plan.

Source: Architectural Plan Set, prepared by SBA Architects.

Plans that apply

- 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 (Sustainable Buildings) 2022
- State Environmental Planning Policy (Transport and Infrastructure) 2021

Planning Assessment

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

The Cumberland Plain Conservation Plan (CPCD) was approved by the Minister for Environment and Heritage on 17 August 2022 which confirmed the extent of bio-certified land and the Strategic Conservation Area, within the Cumberland Plain Conservation Plan (CPCP). Under the CPCP, the entire site is identified as 'Certified - Urban Capable' land.

Section 7.6 of the Biodiversity Conservation Act 2016 (BC Act) states that Part 7 of the BC Act, including the need for a Biodiversity Development Assessment Report (BDAR) or offsets, does not apply to biodiversity certified land. Further, Section 8.4 of the BC Act stipulates that an assessment of the likely impact on biodiversity of biodiversity certified land is not required and the consent authority is not required to take into consideration the likely impact on biodiversity of the development carried out on that land. In this regard, no further assessment is required.

Notwithstanding this, the application was supported by a Threatened Species Assessment and Vegetation Management Plan. The application was referred to Council's Biodiversity Officer who confirmed no further assessment is required and is satisfied that the development is unlikely to have a negative impact on threatened species combined with a buffer of more than 500m from the native vegetation, provided the mitigation measures outlined within the Vegetation Management Plan regarding weed eradication and management are adhered to via a recommended condition of consent.

In this regard, the proposal is considered satisfactory and no further assessment under the BC Act is required.

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

The subject site is identified as bushfire prone land predominately containing Category 2 bushfire Prone Vegetation consisting of grassland. Subsequently, the application was accompanied by a Bushfire Protection Assessment, prepared by Australian Bushfire Protection Planners Pty Ltd, which assessed the proposed development against the aims and objectives of the *Planning for Bushfire Protection 2019* (PBP). It is noted the land accommodating both warehouses contains grassland vegetation which will be removed, however, RE1 zoned land will be rehabilitated to contain River Flat Eucalypt Forest (i.e. Category 1 bushfire prone vegetation), thus increasing the bushfire hazard of the proposed warehouse and impact of radiant heat/ember attack.

The assessment recommended the provision and maintenance of an 11m defendable space to the southern and western sides of the warehouses and to be maintained as an Inner Protection Area (IPA) under the terms of a positive covenant. Furthermore, specific bushfire construction standards have been recommended, ensuring a BAL 19 construction is provided to the southern and western elevations of Warehouse 1, and a

BAL 12.5 construction is provided to the southern and western elevations of Warehouse 2. Additional construction standards have also been recommended in regard to materials used for external access doors, windows, vents, and roof ventilators.

Council has reviewed the report and recommendation and is satisfied that the report adequately demonstrates compliance with the aim and objectives of the PBP and Building Code of Australia. In this regard, an assessment under Section 4.14 of the Act has been undertaken and the proposal is satisfactory, subject to recommended conditions of consent.

- **Section 4.15 - Evaluation**

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

- **Section 4.46 - Integrated development**

The proposed development is nominated integrated development, by virtue of section 4.46 of the *Environmental Planning and Assessment Act 1979*, requiring a Controlled Activity Approval on waterfront land under Section 91 of the *Water Management Act 2000*.

A controlled activity means:

- (a) the erection of a building or the carrying out of a work (within the meaning of the *Environmental Planning and Assessment Act 1979*), or
- (b) the removal of material (whether or not extractive material) or vegetation from land, whether by way of excavation or otherwise, or
- (c) the deposition of material (whether or not extractive material) on land, whether by way of landfill operations or otherwise, or
- (d) the carrying out of any other activity that affects the quantity or flow of water in a water source.

Waterfront land means:

- (a) the bed of any river, together with any land lying between the bed of the river and a line drawn parallel to, and the prescribed distance inland of, the highest bank of the river, or
- (a1) the bed of any lake, together with any land lying between the bed of the lake and a line drawn parallel to, and the prescribed distance inland of, the shore of the lake, or
- (a2) the bed of any estuary, together with any land lying between the bed of the estuary and a line drawn parallel to, and the prescribed distance inland of, the mean high water mark of the estuary, or
- (b) if the regulations so provide, the bed of the coastal waters of the State, and any land lying between the shoreline of the coastal waters and a line drawn parallel to, and the prescribed where the prescribed distance is 40 metres or (if the regulations prescribe a lesser distance, either generally or in relation to a particular location or class of locations) that lesser distance. Land that falls into 2 or more of the categories referred to in paragraphs (a), (a1) and (a2) may be waterfront land by virtue of any of the paragraphs relevant to that land.

The proposed development involves works within 40m of a 2nd order Strahler watercourse including its realignment. In this regard, the application was referred to the Department of Climate Change, Energy, the Environment and Water (previously Department of Planning and Environment - Water).

Concurrence was received on 2 April 2024, granting approval for the works and provided General Terms of Approval (GTAs). The GTAs have formed part of this assessment and recommended conditions of consent.

- **Section 7.26 - Housing and productivity contributions**

On 28 June 2023, the NSW Parliament passed the *Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Act 2023*, which commenced on 1 October 2023. However, the application benefits from savings provisions as the application is a pending development application which was lodged before 1 October 2023. Therefore, the contribution does not apply.

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

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

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

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 6 Water catchments

The site is located in the Hawkesbury-Nepean Catchment and therefore, as per Section 6.1 of the *State Environmental Planning Policy (Biodiversity and Conservation) Policy 2021* (Biodiversity and Conservation SEPP), the requirements and provisions of Chapter 6 apply. Accordingly, an assessment of the proposal against the relevant criteria relating to water quality and quantity, aquatic ecology, flooding, recreation and public access, and total catchment management has been undertaken. The proposal is considered to be satisfactory in this regard.

Chapter 13 Strategic conservation planning

The majority of the site is classified as "urban capable land" under the Cumberland Plain Conservation Plan (CPCP), whilst the strip of SP2 land fronting Mamre Road is classified as "excluded land". Biodiversity certification under Part 8 of the Biodiversity Conservation Act 2016 (BC Act) provides for a streamlined biodiversity assessment process" for areas of land that are proposed for development. The process identifies areas that have approval for biodiversity impacts once certified, removing the need for a site-by-site biodiversity assessment before development begins. Under the BC Act, "Certified - urban capable land" can be cleared without biodiversity offsetting requirements.

The proposed development is wholly contained within the "Certified - urban capable land" and therefore, no further assessment is required and the proposal does not compromise the aims and objectives of the Biodiversity and Conservation SEPP.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 2 Western Sydney employment area

Clause 2.10 Zone objectives land use table

The front portion of the subject site is identified by the 'Land Application Map' of the Western Sydney Employment Area as being located within Precinct 12 (being the Mamre Road Precinct). Subsequently, the subject site contains the following zoning under the *State Environmental Planning Policy (Industry and Employment) 2021* (Industry and Employment SEPP) as demonstrated in Figure 4 below:

- SP2 Infrastructure - along the Mamre Road frontage of the site,
- IN1 General Industrial - majority of the front portion of the site, and
- RE1 Public Recreation - existing watercourse traversing through the site.

The remainder of the site (which is not proposed to have any works carried out as part of this development application) is located within Western Sydney Aerotropolis under the *State Environmental Planning Policy (Precincts - Western Parkland City) 2021* and zoned ENZ Environment and Recreation

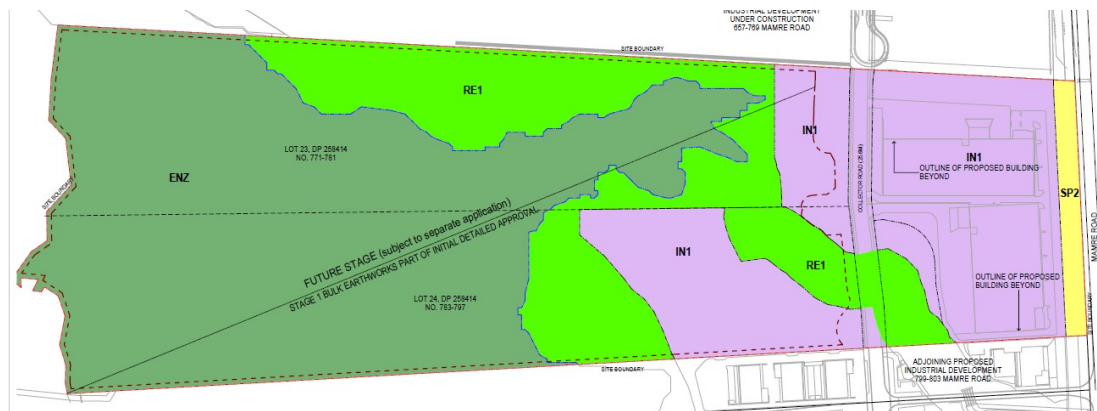


Figure 4. Site Zoning with Proposed Development Overlay.

Source: Architectural Plan Set, prepared by SBA Architects

The development site is located wholly within the Mamre Road Precinct and the application seeks consent for 'warehouse and distribution facilities' and 'identification signs' located in the IN1 zone which are permissible, subject to 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 (i.e. warehouse and distribution facilities with associated identification signage) is consistent with the following objectives, while not being inconsistent with the other objectives:

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

The proposal also includes the construction of a north/south industrial collector road located within both the IN1 and RE1 zones. 'Roads' are permissible with consent in both zones.

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

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

The proposed road is considered to be critical infrastructure to support and facilitate the continued development of the Mamre Road Precinct and therefore is consistent with these objectives.

No development is proposed within the SP2 zone.

Future RE1 Rezoning

It is also noted the development application includes the provision for a future extension of the RE1 corridor. The realignment of the RE1 corridor reflects an agreed position between Sydney Water and the developer to best deliver a combined approach and design for the Regional Stormwater Scheme and to facilitate a future Stage 2 development to be sought under a separate development application. The future realigned corridor links the northern trunk drainage channel and enables the required engineering outcomes to convey water in accordance with Sydney Water's requirements and the Mamre Road Precinct DCP. The realignment and design meets the minimum bend radius and mimics a naturalised waterway corridor, noting the existing corridor has been heavily modified for previous agricultural uses with native vegetation cleared and now consists of exotic grassland. As discussed within this report, DCCEEW have provided GTAs for the realignment of the watercourse.

Whilst the subject application has allowed space for this future realignment, the Applicant has confirmed that approval for the RE1 realignment and rezoning is **not** being sought under this application and is subject to future planning approval by way of a planning proposal. The Applicant has engaged with the Department of Planning and Environment, NRAR, Sydney Water and Council regarding the submission of a Planning Proposal to formalise this rezoning. The applicant has clarified and confirmed that the proposed development in its entirety is located wholly within the existing zoned land. Conditions of consent have therefore been provided in this regard.

Clause 2.17 Requirement of development control plans

The *Mamre Road Development Control Plan 2021* (MRP DCP) was adopted on 19 November 2021 and applies to the site. Council has assessed the development against the relevant provisions of the MRP DCP and concludes the development complies with its provisions. The MRP DCP assessment is discussed further within this report.

Clause 2.19 Ecologically sustainable development

The Applicant has satisfactorily incorporated principles of ecologically sustainable development relating to energy, transport, water, materials, emissions and indoor environment quality.

Clause 2.20 Height of buildings

Clause 2.20 outlines the consent authority must be satisfied that:

- (a) building heights will not adversely impact on the amenity of adjacent residential areas, and*
- (b) site topography has been taken into consideration.*

The proposed maximum ridgeline of both warehouses is 14.6m. It is noted the maximum building height permitted on the land is 20m under the *Mamre Road Precinct Development Control Plan 2021* and the proposal is compliant with this control. It is also considered that the proposed heights are consistent with the emerging industrial context of the surrounding locality and would not cause adverse visual impacts. The proposed development and associated building heights appropriately responds to the topography of the site given the constraints of planning infrastructure and riparian corridors. In this regard, the proposed development satisfies the requirements of this Clause.

Clause 2.21 Rainwater harvesting

The proposal provides for the harvesting of rainwater through the use of rainwater tanks to collect roof water to offset non-potable uses on the site and is therefore satisfactory.

Clause 2.22 Development adjoining residential land

This section applies to land that is located within 250m of land zoned for residential purposes. The development is not located within a 250m radius of residential zoned land and therefore, this clause does not apply.

Clause 2.23 Development involving subdivision

Under Clause 2.23, in the subdivision of land, the Consent authority must consider:

- (a) the implications of the fragmentation of large lots of land,*
- (b) whether the subdivision will affect the supply of land for employment purposes,*
- (c) whether the subdivision will preclude other lots of land to which this Chapter applies from having reasonable access to roads and services.*

It is considered that the proposed subdivision is in accordance with the Mamre Road Precinct and will support and facilitate roads and services for future lots and development.

Clause 2.24 Public utility infrastructure

The application proposes to extend services to the site in consultation with utility providers including Sydney Water and Endeavour Energy. Subject to recommended conditions of consent, adequate arrangements will be made to ensure utility infrastructure will be available to the site.

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

The site fronts Mamre Road which is marked as 'Proposed Road' and is set to be widened in the future to

accommodate development in the Mamre Road Precinct and Aerotropolis. It is noted the front portion of the site is zoned SP2 Infrastructure to accommodate the proposed future widening of Mamre Road and no development (including temporary development) is proposed within the SP2 zone. The SP2 zoned land is proposed to be dedicated to TfNSW under Clause 2.27 of the Industry and Employment SEPP as discussed below.

In accordance with Clause 2.25, the application was referred to the Secretary of Planning for concurrence. On 14 June 2023, a response was received confirming the SP2 zoned land along the site's frontage is identified for acquisition associated with proposed upgrades to Mamre Road and that the proposed development does not interfere with the proposed transport infrastructure route, particularly noting vehicular access is provided via the north/south industrial collector road and not Mamre Road.

In this regard, the proposed development satisfies the provisions of this clause.

Clause 2.27 Relevant acquisition authority

The subject site contains land zoned SP2 Infrastructure and RE1 Public Recreation. Clause 2.27 outlines the acquisition authority for SP2 zoned land is Transport for NSW, and Penrith City Council for RE1 zoned land. It is noted this Clause does not stipulate the timing of the relevant acquisitions. The application seeks to dedicate the SP2 land to TfNSW, however, seeks to defer acquisition of the RE1 land to a later stage of development under separate approval. This has been accepted by Council.

Clause 2.30 Design principles

The proposed warehouses are of a suitable design and construction standard that will not detract from the emerging character of the surrounding area within the Mamre Road Precinct. The scale, built form and 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 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 2.35 Development within the Mamre Road Precinct

Subclause (1) outlines:

(1) Consent must not be granted to development on the land identified on the Land Application Map as Precinct 12 (Mamre Road) that has an estimated development cost of more than \$200,000 without the concurrence of Transport for NSW.

The site is located within Precinct 12 and the proposed development has an estimated development cost greater than \$200,000 and therefore, the application was referred to Transport for NSW (TfNSW) to assess the likely effect of the development on the:

(2) (a) the compatibility of the proposed development with the delivery of an integrated freight network, including use of fire access roads and connection to the fire access roads of adjoining land, and

(b) the operation of an integrated freight network, including whether the development is likely to

impede access to or from the integrated freight network, and

(c) the practicability and cost of carrying out transport projects on the land in the future.

On 28 August 2023, TfNSW raised no objections to the proposed development on traffic and transport grounds. In this regard, the proposal is considered satisfactory.

Clause 2.39 Water recycling and conservation

The development includes recycled water infrastructure including trunk drainage that would ultimately connect to Sydney Water's recycled water scheme. The Applicant intends to connect to the regional scheme and future infrastructure designs, including purple pipe network (i.e. recycled water), will be completed at detail design stage. Conditions of consent are recommended requiring this level of detail be submitted prior to the commencement of works.

Clause 2.40 Earthworks

The proposed development appropriately responds to the topography of the site whilst enabling safe connection to the road network. The design balances cut and fill as practicable. It is noted the existing drainage line, in conjunction with the north-south collector road and need to provide safe and efficient heavy vehicle access from the road network were key in ensuring finished pad levels for the site. Furthermore, the orientation of both warehouses are aligned with the topography in order to minimise the level of cut required.

Overall, it is considered the earthworks will not compromise the existing drainage patterns, soil stability, the amenity of adjoining land or cause visual impact. In this regard, the proposal is consistent with the provisions of Clause 2.40, subject to conditions of consent in relation to sediment and erosion control measures.

Clause 2.41 Development on flood prone land

The proposed development meets flooding and overland flow planning requirements. The development does not impact or encroach on existing flood affected areas and modelling shows that local post development flows from the site, in conjunction with flood management measures to be adopted in the flooding assessment demonstrate that the site discharge will not adversely affect any land, drainage system or watercourse as a result of the development.

Clause 2.42 Heritage Conservation

An Aboriginal Cultural Heritage Assessment (ACHA) has been undertaken and consultation with Aboriginal stakeholders is currently being completed in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Components*.

It is noted the archaeological survey for the project identified four (4) areas of Potential Archaeological Deposit (PAD) associated with raised areas within the floodplain associated with South Creek. However, three (3) of the identified PADs are located outside of the development area whilst one (1) PAD is partly located in the future development area (i.e. west of the north/south collector road and therefore not impacted by the proposed development under this application. The submitted ACHA has provided recommendations which will be adhered to via conditions of consent.

Clause 2.44 Stormwater, water quality and water sensitive design

The development has been designed to achieve the water flow and quality targets of the MRP DCP. In

future, the development will be required to connect into Sydney Water's regional stormwater scheme, which will be ensured via recommended conditions of consent. This approach has been agreed to by Sydney Water. Furthermore, Council, Sydney Water and the Department of Climate Change, Energy, the Environment and Water (previously NRAR) have reviewed the proposal and are satisfied the proposed interim strategy meets the requirements of the technical guidelines.

Chapter 3 Advertising and Signage

The proposal includes the following signage for Warehouse 1:

- 2 x business identification signage zones measuring 11m x 2.5m - one (1) sign located on each western and eastern facade

The proposal includes the following signage for Warehouse 2:

- 2 x business identification signage zones measuring 11m x 2.5m - one (1) sign located on each western and eastern facade

In addition, the proposal includes additional signage consisting of the following:

- 1 x 2m x 10m Estate Pylon sign
- 2 x 0.8m x 2.1m tenant car parking wayfinding pylon signs
- 2 x 1.5m x 3.3m truck entry/exit wayfinding pylon signs

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 5 is provided below:

Assessment Criteria	Response
Character of the area	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	Complies. The proposed signage ensures compatibility with the desired character of the area as it will identify two future tenancies within the Mamre Road Precinct and aids in wayfinding. The design of the signs is compatible with the proposed design of the warehouses reflected in materials and colour schemes.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	
Special areas	
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	Complies. The proposal does not detract from any special areas. The signage is consistent with the built form of the warehouses and surrounding industrial development, and is is not considered to result in a proliferation of signage. Therefore, the signage does not detract from the amenity or visual quality of the area.
Views and vistas	
Does the proposal obscure or compromise important views?	Complies. The proposed signs do not obstruct any views or vistas. No sign protrudes above the maximum building height or compromises an important view.
Does the proposal dominate the skyline and reduce the quality of vistas?	
Does the proposal respect the viewing rights of other advertisers?	
Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	Complies. The proposal is consistent with the streetscape, setting and landscape as it will identify the future Warehouses 1 and 2 tenants and ancillary parking areas and truck entry/exit points within in industrial precinct. The proposed signage does not obscure, protrude or create unsightliness. There is no vegetation management associated with the proposed signage.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	
Does the proposal screen unsightliness?	
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	
Does the proposal require ongoing vegetation management?	
Site and building	

Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	Complies. The proposed signage is compatible with the characteristics of the site and buildings as it provides wayfinding for the site and identification signage. The signs are of an appropriate scale and integrates well with the layout of the site, thereby achieving a positive visual outcome.
Does the proposal respect important features of the site or building, or both?	
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	
Associated devices and logos with advertisements and advertising structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	Complies. No associated devices proposed.
Illumination	
Would illumination result in unacceptable glare?	The proposed illuminated signs will comply with the relevant Australian Standards so as to not result in unacceptable glare, subject to recommended conditions of consent.
Would illumination affect safety for pedestrians, vehicles or aircraft?	
Would illumination detract from the amenity of any residence or other form of accommodation?	
Can the intensity of the illumination be adjusted, if necessary?	
Is the illumination subject to a curfew?	
Safety	
Would the proposal reduce the safety for any public road?	Complies. The proposal does not reduce the safety for any public roads, pedestrians or bicyclists. All signs have been located and designed not to compromise safety.
Would the proposal reduce the safety for pedestrians or bicyclists?	
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	

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

State Environmental Planning Policy (Planning Systems) 2021

The proposal is identified as '*regionally significant development*' pursuant to Section 2.19 and under Schedule 6(2) of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP), as the Capital Investment Value (CIV) for the development exceeds \$30 million (i.e. \$31,488,464 exc. GST). 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, and notified on or before 31 May 2023, is classed as State Significant Development. However, the relevant amount for each warehouse is less than \$30 million. Accordingly, the proposed development is not declared to be State Significant Development.

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

Chapter 4 Western Sydney Aerotropolis

Section 4.12 Zone objectives and Land Use Table

The rear portion of the site is located within the Western Sydney Aerotropolis and zoned ENZ Environment and Recreation under the *State Environmental Planning Policy (Precincts - Western Parkland City) 2021* (Western Parkland City SEPP). The remaining front portion of the site is located within the Western Sydney Employment Area (i.e. Mamre Road Precinct) and zoned under the *State Environmental Planning Policy (Industry and Employment) 2021*, as further discussed within this report.

The proposed development is located within the Western Sydney Employment Area and well outside the ENZ zone of the Western Sydney Aerotropolis and therefore, no further assessment of the proposal against Chapter 4 of the Western Parkland City SEPP is required. Notwithstanding this, a number of airport safeguards apply to the site as outlined below.

Section 4.19 Wildlife hazards

The site is located within the '13 km 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 the Western Parkland City SEPP and therefore, no further assessment is required pursuant to such.

Section 4.22 Airspace operation

The site is located within the 'Obstacle Limitation Surface' area, however, the proposal does not penetrate the prescribed air space and accordingly, no further assessment is required pursuant to Clause 4.22 of the Western Parkland City SEPP.

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 3 of the Resilience and Hazards SEPP is required.

Chapter 4 Remediation of Land

Pursuant to Clause 4.6 of the Resilience and Hazards SEPP, the consent authority must not grant development consent unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

Subsequently, the application was supported by a Preliminary Site Investigation (PSI) which identified a number of areas of concern whereby samples were taken from 20 test pits, 3 stockpiles, and 3 potential asbestos fragments. The PSI concluded 2 samples exceeded the ecological investigation limits and asbestos was also confirmed as being present. Whilst the PSI concluded that the site was 'generally suitable' for the proposed development, recommendations were made to remove the stockpiles present, bitumen, and asbestos containing material, as well as the demolition of the existing dwelling, building and associated structures.

A Remedial Action Plan (RAP) was therefore also submitted which identified 7 areas across the site that are to be remediated, and included various remediation strategies to address the identified contamination.

The application was referred to Council's Environmental Management section who confirmed that whilst the proposed remediation strategies were satisfactory, there were a number of aspects that required further clarification including:

- The RAP included the remediation of parts of the land that were not subject to this development application,
- The RAP has not considered the ENZ and RE1 zones whereby some identified areas are located within close proximity, thereby altering the criteria of assessment.
- The RAP incorrectly identifies the remediation works as Category 2. However, all remediation work within the Hawkesbury-Nepean conservation area sub-catchment are Category 1 works.

The applicant was notified of these matters and subsequently submitted an updated Remedial Action Plan which was considered satisfactory by Council's Environmental Management section. Therefore, subject to recommended conditions of consent, the site can be made suitable for the proposed development.

State Environmental Planning Policy (Sustainable Buildings) 2022

The *State Environmental Planning Policy (Sustainable Buildings) 2022* (Sustainable Buildings SEPP) came into effect on 1 October 2023 and encourages the design of construction of more sustainable buildings across NSW. However, the application benefits from savings provisions as the application was a pending at the time and was lodged before 1 October 2023. Therefore, the Sustainable Buildings SEPP does not apply.

State Environmental Planning Policy (Transport and Infrastructure) 2021

2.122 Traffic-generating development

Section 2.122 requires development applications for certain traffic generating development, as set out in Schedule 3 of the Policy, to be referred to Transport for NSW (TfNSW) and that any submission from TfNSW be considered prior to the determination of the application. As per Schedule 3, warehouse and distribution development of 8,000m² or greater in size requires a referral to TfNSW.

The proposed development 'results in each warehouse greater than 8,000m² (i.e. Warehouse 1 = 10,207m² and Warehouse 2 = 10,185m²) and therefore was referred to TfNSW.

A response was received from TfNSW on 16 March 2023 which identified a number of matters to be resolved. The applicant was advised of these matters and subsequently, additional information was submitted responding directly to the comments provided by TfNSW. The table below summarises the matters raised by TfNSW and the Applicant's subsequent response.

<u>TfNSW Comment</u>	<u>Response</u>
Expected timeline for the construction and dedication of the connection of the proposed collector road to the northern adjoining property. Direct access from Mamre Road will not be supported.	The north-south collector road forms part of The Yards industrial precinct and is currently being constructed. Therefore, the dedication is expected to occur in advance of operation of the subject development. The Applicant and developer to the north are coordinating the road design and completion.
Modelling indicates congestion issues to the internal network and influence the wider precinct.	Modelling results are within the parameters within the Mamre Road Precinct Development Control Plan 2021. All legs of key intersections are Level of Service (LoS) "E" (i.e. at capacity, but not failing), or better with overall intersection LoS typically "B".
Additional Swept Paths testing for 36.5m PBS Level 3 type A vehicles as per Draft Mamre Road Precinct Development Control Plan.	The Mamre Road Precinct Development Control Plan has now been adopted and is no longer in draft format. The controls do not mandate a requirement to test for 36.5m vehicles for individual sites, and instead, nominates vehicles up to 30m PBS Level 2B, and therefore is not required. Notwithstanding, the Applicant is willing to accept a condition of consent restricting access to 30m PBS Level 2B vehicles.
Electronic files for the intersection analysis to be provide, with calibration of the base network model and methodology to be submitted.	Electronic modelling files have been provided.

The amended application was re-referred to TfNSW who provided a response on 28 August 2023, raising no objections to the proposed development on traffic and transport grounds. In this regard, the proposal is considered satisfactory.

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

Mamre Road Precinct DCP 2021

Refer to Appendix 1 (Mamre Road Precinct Development Control Plan 2021) for a complete assessment the proposal against the relevant provisions and controls.

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

The site is subject to the Western Sydney Aerotropolis Special Infrastructure Contribution (WSA SIC). A condition of consent will be imposed requiring the Developer to obtain, written evidence from the Department of Planning and Environment, that the Special Infrastructure Contribution for the development has been made or that arrangements are in force with respect to the making of the contribution. It is noted under the Section 7(4) of the *Environmental Planning and Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Determination 2022*, an exemption may apply if the land will be further subdivided or developed.

In addition, a condition of consent will be imposed requiring payment of Section 7.11 Developer Contributions in accordance with the Mamre Road Precinct Contributions Plan 2022.

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.

Additional Requirements

The application has is accompanied with an assessment of consistency to the MRP DCP as per Section 35 of the Regulations.

Contributions

The Mamre Road Precinct Contribution Plan applies to the site. Conditions of consent have been recommended in this regard.

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

The proposed development is generally in accordance with the Mamre Road Precinct Structure Plan and Road Hierarchy. The warehouses, offices, loading docks, car parks and signage are suitably sited to ensure the proposed development will not cause significant visual impacts.

The application has also suitably addressed stormwater management, subject to recommended conditions consent, also noting the development will connect to Sydney Water's Regional Stormwater Scheme once it becomes available.

The application was also supported with a Threatened Species Assessment and Vegetation Management Plan to ensure the impacts to native vegetation and the riparian corridor are mitigated.

Furthermore, it is considered the proposed development does not result in unreasonable social or economic impacts, noting the broader area is undergoing significant transformation following the rezoning of the land for industrial purposes within the Mamre Road Precinct.

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

The site is located in the Mamre Road Precinct which was rezoned for industrial use. The site is suitable for the proposed development as it provides industrial development on emerging strategically located industrial land, close to major transport links and future airport. The proposal also provides necessary infrastructure to allow for the future development of the Mamre Road Precinct. In this regard, the site is considered suitable for the proposed development.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Council's *Community Participation and Community Engagement Strategy 2022*, the application was notified to surrounding property owners and publicly exhibited between 20 February and 21 March 2023. No submissions were received.

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	Not supported, however conditions provided
Environmental - Biodiversity	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

Environmental - Waterways

Council's Waterways Section finalised internal referral comments prior to receipt of General Terms of Approval (GTAs) from the Department of Climate Change, Energy, the Environment and Water (DCCEEW) (previously Department of Planning and Environment - Water) regarding works within 40m of the 2nd order Strahler watercourse, and prior to confirmation from Sydney Water regarding the interim and ultimate integrated water cycle management design was accepted. Council's Waterways Officer outlined support could not be provided at the time, pending approval from the other government agencies, including DCCEEW and Sydney Water.

These have since been received and recommended conditions of consent have subsequently been provided. A discussion regarding concurrence and referral comments from DCCEEW and Sydney Water are provided within this report.

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 a strategically rezoned precinct for industrial development (i.e. the Mamre Road Precinct) and the surrounding character is therefore transitioning as such.

Section 94 - Developer Contributions Plans

Mamre Road Precinct Contributions Plan 2022

The subject site is located within the Mamre Road Precinct and therefore, the *Mamre Road Precinct Contributions Plan 2022* applies to the development.

The Plan outlines the development of land (including subdivision) within the IN1 General Industrial zone will be levied under the Plan. In accordance with the Plan, contributions are levied on the amount of Net Developable Area (NDA) in hectares of the proposed development multiplied by the base rate of \$599,225 per hectare (subject to indexation). The applicable NDA is either:

- (a) the area of land that is subject of a subdivision for a final lot for future development, or*
- (b) if the development does not include the subdivision of land for a final lot, the area of land to be developed for a use or uses permissible with consent in the IN1 General Industrial zone.*

The proposed development results in a NDA of 53,779m² on proposed future Lot 1.

A condition of consent is therefore imposed under Section 7.11 of the EP&A Act requiring the relevant monetary contributions be levied and paid prior to the release of a Construction Certificate in accordance with 2.4.1(b) of the Plan.

Conclusion

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

- The site is zoned IN1 - General Industrial and RE1 Public Recreation pursuant to the *State Environmental Planning Policy (Industry and Employment) 2021* and 'warehouse or distribution centres' and 'roads' are permitted with consent within both zones.
- The proposed development is considered to meet the objectives of both the IN1 and RE1 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 Mamre Road Precinct and other technical guidelines.
- 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.
- Concurrence and endorsement from the Secretary of Planning, Transport for NSW, Sydney Water, and Department of Climate Change, Energy, the Environment and Water have been received.

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

Recommendation

That DA23/0067 for the construction of two (2) warehouses and distribution facilities, including earthworks, creek realignment, road construction, signage, landscaping, stormwater and associated works, and three (3) lot subdivision at 771-797 Mamre Road, Kemps Creek (Yiribana Logistics Estate West), be approved, subject to the following recommended conditions of consent.

CONDITIONS

General

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

Plan No.	Plan Title	Prepared By	Revision	Date
Architectural Plans				
MP01	Cover Sheet & Location Plan	SBA Architects	B	18.07.23
MP02	DA Masterplan	SBA Architects	E	18.07.23
MP03	Subdivision Plan	SBA Architects	B	18.07.23
MP06	Signage Plan	SBA Architects	B	18.07.23
MP07	Vegetation Management Plan	SBA Architects	B	18.07.23
MP08	Fencing Management Plan	SBA Architects	B	18.07.23
MP09	Fire Protection Plan	SBA Architects	B	18.07.23
MP10	Net Developable Area Plan	SBA Architects	B	18.07.23
DA110	Site & Warehouse 1 Plan	SBA Architects	B	18.07.23
DA111	Warehouse 1 Roof Plan	SBA Architects	B	18.07.23
DA115	Warehouse 1 Office Plan - Ground + Level 1	SBA Architects	B	18.07.23
DA120	Warehouse 1 Elevations	SBA Architects	C	18.07.23
DA130	Warehouse 1 Office Elevations	SBA Architects	C	18.07.23
DA210	Site & Warehouse 2 Plan	SBA Architects	B	18.07.23
DA211	Warehouse 2 Roof Plan	SBA Architects	B	18.07.23
DA215	Warehouse 2 Office Plans	SBA Architects	B	18.07.23
DA220	Warehouse 2 Elevations	SBA Architects	C	18.07.23
DA230	Warehouse 2 Office Elevations	SBA Architects	C	18.07.23
Civil Plans				
C014429.00-DA10	Drawing List & General Notes	Costin Roe Consulting	D	2.02.24
C014429.00-DA11	General Notes - Sheet 2	Costin Roe Consulting	C	25.7.23

C014429.00-DA21	Erosion & Sediment Control Plan - Stage 1	Costin Roe Consulting	B	25.7.23
C014429.00-DA22	Erosion & Sediment Control Plan - Stage 2	Costin Roe Consulting	B	25.07.23
C014429.00-DA25	Erosion & Sediment Control Plan - Sheet 1	Costin Roe Consulting	B	25.07.23
C014429.00-DA26	Erosion & Sediment Control Plan - Sheet 2	Costin Road Consulting	B	25.07.23
C014429.00-DA30	Cut/Fill Plan	Costin Roe Consulting	E	22.12.23
C014429.00-DA40	Drawing Key Plan	Costin Roe Consulting	G	22.12.23
C014429.00-DA41	Concept Stormwater Drainage Plan - Sheet 1	Costin Roe Consulting	K	02.02.24
C014429.00-DA42	Concept Stormwater Drainage Plan - Sheet 2	Costin Roe Consulting	I	02.02.24
C014429.00-DA43	Concept Stormwater Drainage Plan - Sheet 3	Costin Roe Consulting	I	02.02.24
C014429.00-DA44	Concept Stormwater Drainage Plan - Sheet 4	Costin Roe Consulting	E	20.12.23
C014429.00-DA45	Concept Stormwater Drainage Details - Sheet 1	Costin Roe Consulting	A	20.12.22
C014429.00-DA46	Concept Stormwater Drainage Details - Sheet 2	Costin Roe Consulting	A	20.12.22
C014429.00-DA47	Water Sensitive Urban Design Management Plan	Costin Roe Consulting	B	02.02.24
C014429.00-DA48	Stormwater Basin Plan	Costin Roe Consulting	C	02.02.24
C014429.00-DA49	Water Quality Catchment Plan	Costin Roe Consulting	C	22.12.23
C014429.00-DA50	Roadworks Long Section & Typical Sections & Details	Costin Roe Consulting	F	25.07.23
C014429.00-DA51	Roadworks Masterplan	Costin Roe Consulting	E	22.12.23
C014429.00-DA52	RE1 Channel Re-alignment Long Section & Typical Cross Section	Costin Roe Consulting	D	22.12.23
C014429.00-DA53	Northern Road Connection Plan	Costin Roe Consulting	B	22.12.23
C014429.00-DA54	Southern Turning Head and Road Connection Plan	Costin Roe Consulting	B	22.12.23

C014429.00-DA55	Typical Sections - Sheet 1	Costin Roe Consulting	F	02.02.24
C014429.00-DA56	Typical Sections - Sheet 2	Costin Roe Consulting	A	02.02.24
C014429.00-DA71	Pre Development Stormwater Catchment Plan	Costin Roe Consulting	C	18.12.23
C014429.00-DA72	Post Development Stormwater Catchment Plan	Costin Roe Consulting	C	18.12.23
C014429.00-MP01	Concept Stormwater Drainage and Water Quality Masterplan - Option 1	Costin Roe Consulting	B	02.02.24
C014429.00-MP02	Concept Stormwater Drainage and Water Quality Masterplan - Option 2	Costin Roe Consulting	B	02.02.24
C014429.00-SK02	Concept Flood Management Sketch Flow Path 1	Costin Roe Consulting	A	02.02.24
<u>Landscape Plans</u>				
000	Landscape Coversheet	Site Image Landscape Architects	E	06.02.24
001	Tree Canopy Coverage	Site Image Landscape Architects	E	06.02.24
002	Plant Schedule	Site Image Landscape Architects	E	06.02.24
100	Landscape Masterplan	Site Image Landscape Architects	E	06.02.24
101	Landscape Plan	Site Image Landscape Architects	E	06.02.24
102	Landscape Plan	Site Image Landscape Architects	E	06.02.24
103	Landscape Plan	Site Image Landscape Architects	E	06.02.24
104	Landscape Plan	Site Image Landscape Architects	E	06.02.24
105	Landscape Plan	Site Image Landscape Architects	E	06.02.24

106	Landscape Plan	Site Image Landscape Architects	E	06.02.24
107	Landscape Detail Plan	Site Image Landscape Architects	D	06.02.24
108	Landscape Detail Plan	Site Image Landscape Architects	E	06.02.24
501	Landscape Details	Site Image Landscape Architects	C	06.02.24
502	Matrix Planting Details	Site Image Landscape Architects	C	06.02.24
503	Matrix Planting Details	Site Image Landscape Architects	C	06.02.24
504	Landscape Details	Site Image Landscape Architects	B	06.02.24
505	Landscape Specification	Site Image Landscape Architects	A	28.07.23
601	Landscape Section	Site Image Landscape Architects	C	28.07.23
602	Landscape Section	Site Image Landscape Architects	C	28.07.23
603	Landscape Section	Site Image Landscape Architects	B	15.12.22
604	Landscape Section	Site Image Landscape Architects	C	28.07.23
605	Landscape Section	Site Image Landscape Architects	A	28.07.23
Report / Document Title		Prepared By		Date
Aboriginal Cultural Heritage Assessment, version 4		Austral Archaeology		14/4/2023
Acoustic Report, revision R01B		Acoustic Works		14/07/2023
Aeronautical Impact Assessment, version B		Landrum & Brown Worldwide		02/12/2022
Air Quality Risk Assessment, version 2		Northstar		29/11/2022
Bushfire Protection Assessment		Australian Bushfire Protection Planners		30/11/2022
Civil Engineering Report, revision E		Costin Roe Consulting		02/02/2024
Crime Risk Assessment		Urbis		09/12/2022

Ecologically Sustainable Development Report, version 2	Northstar	29/11/2022
Fire Safety Strategy	Core Engineering Group	06/12/2022
Framework Travel Plan, version I	Ason Group	27/01/2023
Geotechnical Investigation Report, version 0	Alliance	12/12/2022
Landscape DA Report, issue C	Site Image	06/02/2024
Non-Aboriginal Heritage Assessment	Austral Archaeology	11/04/2023
Preliminary Site Investigation, issue 02	KPMG	25/10/2021
Remedial Action Plan, version 2f	Sydney Environmental Group	03/07/2023
Threatened Species Assessment, version 001	Cumberland Ecology	02/12/2022
Transport Assessment, version 01	Ason Group	27/01/2023
Transport Assessment Addendum	Ason Group	14/07/2023
Vegetation Management Plan, version 01	Cumberland Ecology	21/02/2024
Visual Impact Assessment Report, revision A	Geoscapes	05/12/2022
Waste and Resource Recovery Management Plan	LG Consulting	30/11/2022

- 2 The development is required to comply with the conditions and requirements outlined within the General Terms of Approval / Bushfire Safety Authority issued by Department of Planning and Environment, dated 2 April 2024, as set out below:

TC-G001	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment-Water, and obtained, for a controlled activity approval under the Water Management Act 2000.
TC-G004	<p>A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application DA23/0067 provided by Council to Department of Planning and Environment-Water.</p> <p>B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, the Department of Planning and Environment-Water, must be notified in writing to determine if any variations to the GTA will be required.</p>
TC-G005	<p>A. The application for a controlled activity approval must include the following plan(s):</p> <ul style="list-style-type: none"> • Site plans • Detailed civil construction plans • Construction streamworks plans • Construction watercourse crossing design plans • Soil and water management plan • Erosion and sediment control plans • Construction stormwater drainage outlet plan • Vegetation management plan • Construction detailed bulk earthworks plans <p>B. The plan(s) must be prepared in accordance with Department of Planning and Environment-Water's guidelines located on the website https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what/guidelines</p>

Where separate approvals are required, evidence of this approval from the relevant authority, is to be provided to the appointed Certifying Authority **prior to the issue of any Construction Certificate** (where relevant). A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.

- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 The approval of fencing is limited to that indicated on the approved plans. All elements of the fencing, including the footings, is to be contained entirely within the development site and not encroach upon the any existing or future road corridor.
- 5 No retail sale of goods shall be conducted from the subject premises.

- 6 All materials and goods associated with the use shall be contained within the building at all times.
- 7 The following community safety and crime prevention through environmental design (CPTED) requirements, must be implemented:
- All outdoor spaces must be lit to the minimum Australian Standard of AS 1158. Lighting must be consistent in order to reduce the contrast between shadows and illuminated areas and must be designed in accordance with AS 4282 - Control of the obtrusive effects of outdoor lighting.
 - CCTV is to be provided. Cameras must be of sufficient standard to be useful for police in the event of criminal investigations. Lighting must be provided to support cameras at night (alternatively infra-red cameras are recommended). Signage must be displayed to indicate that CCTV cameras are in use.
- Advisory notes:
- All areas of the car park should be well-lit, with consistent lighting to prevent shadowing or glare
 - Entrances to the offices and other focal areas should be easily identifiable, well signed and allow good visibility on approach and towards the public space.
 - Graffiti resistant coatings are encouraged to be used for external surfaces where possible.
 - Procedures are to be in place to ensure the prompt removal and / or repair of graffiti or vandalism. This includes reporting incidents to police and other relevant authorities.
- 8 Lighting is to be designed and directed so as to not cause light spill onto adjoining sites, sensitive receivers or adjacent natural areas, and is to be provided in accordance with the requirements of Australian Standard 4282-1997 - Control of the obtrusive effects of outdoor lighting.
- 9 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 10 **Prior to the issue of an Occupation Certificate**, the Collector Industrial Road must be constructed and operational.
- 11 Light vehicle access for both Warehouses must be maintained via the shared driveway in perpetuity.
- 12 This consent does not grant approval for the future rezoning and realignment of the RE1 zoned land. This must be sought under separate planning approval.
- 13 **Prior to the issue of a final Occupation Certificate**, a restriction as to user and positive covenant relating to the management of the landscaped gardens to be maintained as an inner protection area as required under Section 5 of the approved Bushfire Protection Assessment, prepared by ABPP, dated 30/11/2022 shall be registered on the title of the property.
- 14 The approved riparian corridor works shall remain wholly within the existing RE1 zoned land.

Demolition

- 15 All demolition works are to be conducted in accordance with AS 2601-2001 The demolition of structures.

SafeWork NSW requirements apply to demolition work and compliance with those requirements, including the SafeWork NSW Code of Practice Demolition Work August 2019, is required.

Prior to demolition, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

- 16 Regulatory obligations (including licensing and notification requirements) for the management, control and removal of asbestos are prescribed in the:

- *Work Health and Safety Act 2011,*
- *Work Health and Safety Regulation 2017*
- *SafeWork NSW Code of Practice How to Manage and Control Asbestos in the Workplace August 2019,*
- *SafeWork NSW Code of Practice How to Safely Remove Asbestos August 2019.*
- *Australian Standard AS2601-2001 The demolition of structures*

Compliance with the above legislation is required and reference should be made to SafeWork NSW and to the Asbestos Policy Penrith City Council 2014.

All asbestos laden waste must be disposed of at a waste management facility licensed by the NSW Environment Protection Authority to receive asbestos waste.

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

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

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

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

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

Heritage/Archaeological relics

20 **Prior to the commencement of any works**, the Applicant must implement the recommendations outlined in the Aboriginal Cultural Assessment report, prepared by Austral Archaeology, version 4, dated 14 April 2023.

21 If any item or object of Aboriginal heritage significance is identified on-site:

- (a) all work in the immediate vicinity of the suspected Aboriginal item or object must cease immediately;
- (b) a 10 m wide buffer area around the suspected item or object must be cordoned off; and
- (c) Heritage NSW must be contacted immediately.

If any historic heritage archaeological relics are uncovered during earthworks or construction, then all works must cease immediately in that area. Unexpected finds must be evaluated and recorded in accordance with the requirements of Heritage NSW.

Environmental Matters

22 **Prior to the issue of the Construction Certificate**, a Construction Environmental Management Plan is to be prepared by a suitably experienced and qualified person, and submitted to and approved by the Principal Certifier.

The Construction Environmental Management Plan is to address the environmental aspects of the construction phase of the development, and is to include details on the environmental management practices and controls to be implemented on the site.

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

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

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

23 **Prior to the issue of the Construction Certificate**, a Construction Waste Management Plan is to be submitted to and approved by the Principal Certifier. This Plan is to address all waste materials generated during the construction phase of the development, including details of the proposed waste volumes, on site storage and management, designated waste contractors and waste facilities.

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

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

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

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

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

Operational matters of the development

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

- 25 Remediation of those areas identified as being in Stage 1 in Table 5.1.1 of 'Remedial Action Plan: 771-781 & 783-797 Mamre Road, Kemps Creek NSW' prepared by Sydney Environmental Group (dated 3 July 2023, ref. 1495-RAP-01-230322.v2f) shall be carried out generally in accordance with that Plan, as well as the National Environment Protection (Assessment of Site Contamination) Measure 1999 [NEPC2013], applicable NSW Environment Protection Authority Guidelines and the Penrith Development Control Plan.

On completion of the site remediation works, the following documentation is to be submitted for approval to the Principal Certifying Authority and Penrith City Council, if Council is not the Principal Certifying Authority:

- Written notification that the site remediation works have been completed is to be submitted **within 30 days of the said works having been completed**.
- A Validation Report, prepared by an appropriately qualified person, is to be submitted **before any other works can commence on the site**. The report shall certify that all areas identified as being in Stage 1 in Table 5.1.1 of the approved Remedial Action Plan have been satisfactorily remediated and that the remediation works have been carried out in accordance with the approved Remedial Action Plan, the National Environment Protection (Assessment of Site Contamination) Measure 1999 [NEPC2013], relevant NSW Environment Protection Authority Guidelines and the Penrith Development Control Plan.

{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.”}

26 An appropriately qualified person/s shall:

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

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

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

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

27 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.

28 Waste materials associated with the development are to be classified and disposed of at a lawful waste facility, or, if suitable, re-used / recycled. Such works are to be undertaken in accordance with the approved Waste Management Plan, where applicable.

Where the disposal location or waste materials have not been identified in an approved waste management plan, details shall be provided to the Certifier prior to those works commencing.

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.

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

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

- 30 Noise levels from the premises shall not exceed the relevant noise criteria detailed in 'Acoustic Report: Proposed Industrial Development, 771-797 Mamre Road, Kemps Creek' prepared by Acoustic Works (dated 14 July 2023, ref. 1022116 R01B 771-797 Mamre Road Kemps Creek ENV.docx). The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 31 All works and storage areas where spillages are likely to occur shall be bunded. Where Australian Standards apply, bunding construction and capacity must comply with those standards. Where Australian Standards do not apply, the size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater.
- 32 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a suitable waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

Waste licensing requirements apply in NSW. Where required, the waste contractor and waste facility are to be licensed by the NSW Environment Protection Authority. Reference should be made to the NSW Environment Protection Authority for licensing requirements.

- 33 **Prior to the issue of the Construction Certificate**, a Construction Noise and Vibration Impact Assessment and Management Plan, prepared by a suitably qualified acoustic consultant, is to be prepared and submitted to Penrith City Council for approval. This assessment is to consider (at minimum) the noise and vibration impacts associated with the construction phase, as well as details of the construction program, construction methods, equipment and vehicles in association with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

The recommendations of the Council approved Management Plan are to be implemented and adhered to during the construction phase of the development.

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

- 34 All mechanical plant and equipment is to comply with the noise criteria established in the Council approved 'Acoustic Report: Proposed Industrial Development, 771-797 Mamre Road, Kemps Creek' prepared by Acoustic Works (dated 14 July 2023, ref. 1022116 R01B 771-797 Mamre Road Kemps Creek ENV.docx).
- 35 Offensive odours are not to be emitted from the site. Vapours, fumes, gases, particles or any other substance that are considered to be harmful to human health or the environment or impact unreasonably on a person outside of the premises are not to be emitted from the site.
- 36 Loading and unloading of oils, chemicals and any other liquid materials must only take place in a bunded area.
- 37 A 3 metre high acoustic barrier is to be constructed and maintained as described in Section 11.1.1 and marked on Figure 14 of the 'Acoustic Report: Proposed Industrial Development, 771-797 Mamre Road, Kemps Creek' prepared by Acoustic Works (dated 14 July 2023, ref. 1022116 R01B 771-797 Mamre Road Kemps Creek ENV.docx) until such time as the dwelling located at 799-803 Mamre Road, Kemps Creek has been demolished.

Detailed plans and specifications of the acoustic barrier are to be submitted to Penrith City Council **prior to the issue of the Construction Certificate**. The acoustic barriers are to be satisfactorily completed **prior to issue of the Occupation Certificate**.

- 38 The recommendations provided in the 'Acoustic Report: Proposed Industrial Development, 771-797 Mamre Road, Kemps Creek' prepared by Acoustic Works (dated 14 July 2023, ref. 1022116 R01B 771-797 Mamre Road Kemps Creek ENV.docx) shall be implemented and incorporated into the design and construction of the development, and **shall be shown on plans accompanying the Construction Certificate application.**
- 39 A certificate is to be obtained from a qualified acoustic consultant certifying that the development, including mechanical plant and equipment and acoustic barriers, has been constructed to meet the noise criteria in accordance with the 'Acoustic Report: Proposed Industrial Development, 771-797 Mamre Road, Kemps Creek' prepared by Acoustic Works (dated 14 July 2023, ref. 1022116 R01B 771-797 Mamre Road Kemps Creek ENV.docx). This certificate is to be submitted to the Principal Certifying Authority **prior to the issue of an Occupation Certificate.**

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

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

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

- 41 Contaminated topsoil shall not be mixed with uncontaminated underlying natural soils.
- 42 Should contamination be found during development works (outside the scope of the Council approved Remedial Action Plan), and should remediation be required, Penrith City Council is required to be notified and consulted before the remediation works commence.
- 43 **Prior to works commencing**, a site plan is to be submitted to Penrith City Council for approval that shows key site locations during the remediation works, including but not limited to the proposed locations of vehicle and personnel entry/exit, any unloading area, any decontamination zones and those areas that may be used for stockpiling of contaminated or other materials. This plan is also to show all sediment and erosion control measures that will be installed.

The approved plan is to be adhered to throughout all stages of the remediation works.

44 An appropriately qualified person/s shall:

1. Supervise the remediation works.
2. Supply Council with a copy of any relevant documentation for further testing carried out during the remediation works.
3. Address off site impacts and proposed management strategies where relevant.
4. (after completion of works) certify by way of a Validation Report (including associated Clearance Certificates or other written documentation) that remediation works have been carried out 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 Validation Report is to be submitted to the Principal Certifying Authority (PCA) and Penrith City Council if it is not the PCA in accordance with the conditions of this consent.

The contact details of any appropriately qualified person/s engaged for the works shall be **provided with the notice of commencement**.

{**Note:** 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.”}

45 The mitigation measures recommended in Appendix C of the 'Air Quality Risk Assessment' (prepared by Northstar Air Quality Ptd Ltd, dated 29 November 2022, ref. 23.1031.FR2V2) to address impacts to air quality are to be implemented during the construction phase of the development.

46 **Prior to the issue a Construction Certificate**, the Vegetation Management Plan, prepared by Cumberland Ecology, dated 21 February 2024 is to be amended to change the performance criteria of weed coverage targets identified in Phase 3: Maintenance in Table 5. The weed coverage targets should remain less than 5% for all weed species. As the riparian area will be re-constructed the area should not be allowed to become established with such a high coverage of weeds in the early stages of the project. If more regular inspections and weeding need to be added to achieve the criteria then this should be included.

The amended VMP is to be submitted to Penrith City Council's Environmental Health Team for review and approval.

47 **Prior to the issue of a Subdivision Certificate** all performance criteria for the Establishment Stage / initial works of the Council approved Vegetation Management Plan (VMP), dated 21 February 2024, must be completed to the satisfaction of Penrith City Council. This includes:

- Plant Sourcing
- Site preparation including weed removal, placement of mulch and jute matting where required.
- Irrigation is installed (if required)
- Local provenance Tubestock is supplied and installed.
- Installation of fencing and signage
- Primary weeding has been undertaken.

The Baseline monitoring report which will include photographic evidence certifying compliance with this task is to be provided by the author of the VMP or an equally qualified and experienced person and submitted to Penrith Councils Environmental Health Team for review and approval.

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

48 The decommissioning of the dam is to be undertaken in accordance with the following requirements:

- A fine mesh is to be placed around intake pipes used to drain the dam water to prevent the uptake and spread of carp eggs, juvenile pest species or eggs into the catchment.
- Water is to be pumped from the dam and irrigated onto adjacent grassed areas to minimise the risk of invasive and exotic species from entering natural waterways.
- The intake pipe is to be monitored to prevent injury to aquatic fauna.
- The dewatered dam must be inspected for fauna which may be buried in the sediments on the bottom of the dam.
- Following dewatering, fauna is to be provided with an opportunity to relocate prior to reshaping. A minimum of 72 hours is to be provided.
- Any rescued fauna is to be released at a suitable nearby location or if injured, placed into the care of a wildlife carer.

The de-watering dam process is to cease immediately, and an appropriately qualified aquatic ecologist is to be made available at the subject site should evidence of aquatic or terrestrial fauna be present. The aquatic Ecologist is to ensure that any native species (such as eels and eastern snake-necked turtles) are captured and relocated to a suitable waterway and pest species (such as carp and mosquito fish) are humanely removed and euthanised in a manner consistent with the *Prevention of Cruelty to Animals Act 1979*.

- 49 **Prior to works and during works** the following actions will be undertaken outlined in Section 5 of the Vegetation Management Plan, prepared by Cumberland Ecology, dated 21 February 2024, comprising of:
1. **Hygiene protocols.** This will involve all machinery, clothing (such as boots and gloves), and tools, which will have contact with soil being disinfected with a spray prior to entering and leaving the subject land.
 2. **Weed Management during clearing.** Any weed materials will need to be carefully removed off site in a manner appropriate to the species or at the direction of the ecologist (used for pre-clearing surveys), to prevent the spread of propagules to uncleared areas of native vegetation, both on- and off-site. Machinery and tools involved in weed management will also be washed down prior to entry to the site and following activities on site to prevent new weed infestations.
 3. **Pre-clearance surveys.** Prior to the commencement of any vegetation clearing, a pre-clearance survey must be undertaken by a fauna ecologist within one week of any clearing activities. During the survey native fauna and habitat that have the potential to be disturbed during clearing will be identified, and any habitat features marked with flagging tape and/or spray paint.
 4. **Clearance supervision.** The need for clearance supervision for the removal of vegetation and habitat will be determined and documented in the pre-clearance report. If deemed necessary, the fauna ecologist will be present while clearing to rescue animals injured during the clearance operation.
 5. **Habitat Salvage.** If and where present, fauna habitat features including hollow-bearing trees, hollow-bearing logs, other woody material will be salvaged from the development footprint during clearing and stockpiled for future use in restoration of the VMP area. Any salvaged items are to be placed in the VMP area in a manner that does not disturb/destroy native vegetation.
 6. **Erosion and Sediment Control.** During construction works adequate erosion control measures, such as silt fencing, are to be installed to prevent movement of weed seeds and nutrient-enriched soils during rain events.

Evidence that the above measures have been undertaken shall be provided by the author of the VMP or an equally qualified and experienced person and submitted to Penrith Councils Environmental Health Team for review and approval the works have been carried out in accordance with the requirements.

- 50 Annual reports as outlined in the Council approved Vegetation Management Plan are to be provided to Penrith Councils Environmental Health Team for review that the performance criteria are being achieved.
- 51 Approval is granted for the removal of trees shown on the Vegetation Management Plan (Drawing No. MP07) Issue A prepared by SBA Architects dated 18 July 2023. All trees that are required to be retained as part of the development are to be protected in accordance with Penrith Development Control Plan 2014 - Appendix F4 – Technical Information under supervision by a suitably qualified Consulting Arborist.

BCA Issues

- 52 The recommendations and matters requiring further resolution and/or performance solutions outlined in Table 4.1 and Table 4.2 of the approved BCA 2022 Assessment Report, dated 19 December 2022 are to be implemented and detailed on plans **prior to the issue of a Construction Certificate.**

- 53 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.
- 54 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).

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

Utility Services

- 55 All services (water, sewer, electricity, telephone and gas) are to be installed within the proposed public roads before final inspection of the engineering works.

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

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

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

- 56 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water **prior to the issue of a Subdivision Works Certificate**.

The proponent is advised to make an early application for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

- 57 The approved plans must be submitted to the Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

The Sydney Water Tap in™ online self-service replaces our Quick Check Agents as of 30 November 2015.

The Tap in™ service provides 24/7 access to a range of services, including:

- building plan approvals
- connection and disconnection approvals
- diagrams
- trade waste approvals
- pressure information
- water meter installations
- pressure boosting and pump approvals
- changes to an existing service or asset, e.g. relocating or moving an asset.

Sydney Water's Tap in™ online service is available at: <https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm> Recycled Water.

- 58 **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.

- 59 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997:
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

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

Construction

- 60 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.

- 61 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.

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

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

Engineering

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

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

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

- 65 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.
- e) Operation of a tower crane over the road reserve
- f) Temporary ground anchors that encroach below the road reserve (for basement construction).

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

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

Note:

- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval(s) must be completed prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.
- On completion of any awning over the road reserve, a certificate from a practicing structural engineer certifying the structural adequacy of the awning is to be submitted to Council before Council will inspect the works and issue its final approval under the Roads Act.

- 66 **Prior to the issue of any Construction Certificate or Subdivision Works Certificate**, the Certifier shall ensure that a Section 138 Roads Act application, including payment of application and inspection fees, has been lodged with and approved by Penrith City Council (being the Roads Authority under the Roads Act) for provision of road and drainage works.

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

Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate or Subdivision Works Certificate.
- Separate approval may be required from the Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed **prior to the issue of any Occupation Certificate or Subdivision Certificate as applicable.**

- 67 **Prior to the issue of any Construction Certificate or Subdivision Works Certificate**, the Certifier shall ensure that any applicable application, including the payment of application and inspection fees, has been lodged with and approved by Transport for NSW (TfNSW) for any works within the Mamre Road road reserve.

A copy of TfNSW approval shall be submitted to Penrith City Council prior to Penrith City Council issuing any Roads Act approval.

- 68 A Subdivision Works Certificate is to be approved by the Certifier for the provision of any subdivision works (road, drainage, earthworks).

Prior to the issue of any Subdivision Works Certificate, the Certifier shall ensure that engineering plans are consistent with the stamped approved plan/s prepared by Costin Roe Consulting, reference number CO14429.00-DA10 to MP02, revision D, dated 2/2/24, and that all subdivision works have been designed in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

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

- Public and private roads
- Stormwater management (quantity and quality)
- Inter-allotment drainage
- Private access driveways
- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

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

Note:

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

- 69 **Prior to the issue of any Construction Certificate or Subdivision Works Certificate**, the Certifier shall ensure that the proposed roads have been designed in accordance with Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works and the following criteria:

Road No.	Road Reserve Width	Carriageway Width	Verge Width	Footpath	ESA
Access Road	25.6m	15.4m	4.6m west & 5.6m east	1.5m west & 2.5m east	1 x 10 ⁷

A copy of the pavement design prepared and certified by a suitably qualified geotechnical engineer must accompany the application for the Construction Certificate or Subdivision Works Certificate.

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

Prior to the issue of the Construction Certificate, Subdivision Works Certificate or Section 138 Roads Act approval, the Certifier shall ensure that the recommendations of the RSA have been considered in the final design, through review of the Road Safety Audit Checklist, including Findings, Recommendations and Corrective Actions.

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

- 71 The stormwater management system shall be provided generally in accordance with the Civil Works Package Plans prepared by Costin Roe Consulting, project number CO14429.00 Drawing numbers DA10 – SK02, Issue D dated 02/02/2024, and commitments made in the Civil Infrastructure Report prepared by Costin Roe Consulting, project number CO14429, Issue E dated 02/02/2024

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

Prior to the issue of a Subdivision Works Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Council's Stormwater Drainage for Building Developments and the Technical Guidance for Achieving Wianamatta South Creek Stormwater Management Targets (NSW Government, 2022).

- 72 **Prior to the issue of any Construction Certificate or Subdivision Works Certificate**, the Certifier shall ensure that the proposed development is compatible with the recommendations of the Civil Engineering Report prepared by Costin Roe Consulting, reference number Co14429.00, revision D, dated 22/12/23.

- 73 **Prior to the issue of any Construction Certificate or Subdivision Works 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.

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

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

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

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

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

Note:

- A copy of the Traffic Guidance Scheme shall accompany the Notice of Commencement to Penrith City Council.
- Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to the issue of any Construction Certificate or Subdivision Works Certificate.

- 77 Work on the subdivision shall not commence until:

- a Subdivision Works Certificate (if required) has been issued;
- a Certifier has been appointed for the project, and;
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

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

- 78 Street lighting is to be provided for all new and existing roads within the proposed subdivision to Penrith City Council's standards.

- 79 All earthworks shall be undertaken in accordance with AS3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority / Superintendent in consultation with the Principal Certifier.

- 80 Upon completion of all works in the road reserve, all verge areas fronting the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.
- 81 All existing (aerial) and proposed services for the development, including those across the frontage of the development are to be located or relocated underground in accordance with the relevant authorities' regulations and standards.
- 82 Prior to the issue of any **Occupation Certificate or Subdivision Certificate**, the Principal Certifier shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.
- 83 **Prior to the issue of any Subdivision Certificate**, the Principal Certifier shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.
- 84 **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.

- 85 **Prior to the issue of any Occupation Certificate**, Works As Executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management system shall be submitted to the Principal Certifier in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, Stormwater Drainage Specification for Building Developments and Water Sensitive Urban Design Technical Guidelines.

An original set of Works As Executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Penrith City Council is not the Principal Certifier.

86 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Overland flowpath works
 - c) Flood control works
- have been satisfactorily completed in accordance with the approved Construction Certificate or Subdivision Works Certificate and the requirements of this consent;
 - have met the design intent with regard to any construction variations to the approved design, and;
 - 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.

87 **Prior to the issue of any Occupation Certificate**, a restriction on the use of land and positive covenant relating to the:

- a) Stormwater management systems (including on-site detention and water sensitive urban design)
- b) Overland flowpath works
- c) Flood control works

shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.

88 **Prior to the issue of any Occupation Certificate or Subdivision Certificate and installation of regulatory/advisory signage and line marking**, plans are to be lodged with Penrith City Council and approved by the Local Traffic Committee.

Note:

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

- 89 **Prior to the issue of any Subdivision Certificate**, a bond for the final layer of outstanding asphalt works (AC Bond) is to be lodged with Penrith City Council.

The final layer of asphalt on all roads shall not to be placed without the written consent of Penrith City Council (consent will generally be provided when 80% of the housing within the subdivision has been completed).

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

- 90 **Prior to the issue of any Occupation Certificate or Subdivision Certificate**, a Maintenance Bond is to be lodged with Penrith City Council for subdivision road and drainage works.

The value of the bond shall be determined in accordance with Penrith City Council's adopted Fees and Charges.

Note:

- Contact Penrith City Council's Development Engineering Department on 4732 7777 for further information relating to bond requirements.

91 **Prior to the issue of any Subdivision Certificate**, the following compliance documentation shall be submitted to the Principal Certifier. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifier:

a) Works As Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Subdivision Works Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.

b) The WAE drawings shall clearly indicate the 1% Annual Exceedance Probability flood lines (local and mainstream flooding).

c) The WAE drawings shall be accompanied by plans indicating the depth of cut / fill for the entire development site. The survey information is required to show surface levels and site contours at 0.3m intervals. All levels are to be shown to AHD.

d) CCTV footage in USB format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.

e) A copy of all documentation, reports and manuals required by Section 2.6 of Penrith City Council's WSUD Technical Guidelines for handover of stormwater management facilities to Penrith City Council.

f) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.

g) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.

h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Penrith City Council's Design Guidelines and Construction Specification. The report shall include:

- Compaction reports for road pavement construction.
- Compaction reports for bulk earthworks and lot regarding.
- Soil classification for all residential lots.
- Statement of Compliance.

i) Structural Engineer's construction certification of all structures.

j) A slope junction plan for inter-allotment drainage lines indicating distances to boundaries and depths.

k) Soil testing for each lot to be classified according to AS2870 Residential Slabs and Footings.

- 92 Any Stormwater Quality Improvement Devices (SQIDs), including Gross Pollutant Traps (GPTs), constructed as part of the development shall be operated and maintained by the proponent for a 12-month defect liability period following completion of the works.

Regular inspection records and evidence of cleaning regimes undertaken are required to be submitted to Penrith City Council at the completion of the defect liability period.

- 93 Future development on the site must achieve compliance with the Integrated Water Cycle Management (IWCM) controls in the MRP DCP and the waterway health objectives and targets in the Technical Guidance for Achieving Wianamatta South Creek Stormwater Management Targets (Technical Guidance) (NSW Government, 2022).

The Applicant must ensure sufficient land is reserved on site for stormwater management purposes (such as irrigation areas, evaporation ponds and/or undeveloped land), unless the Applicant provides evidence to the satisfaction of the Development Services Manager that an agreement is in place to demonstrate that the development is integrated into the MRP Stormwater Scheme.

- 94 **Prior to the issue of a Compliance Certificate under Section 73 of the Sydney Water Act, 1994**, an easement under section 88A and/or restriction or public positive covenant under section 88E of the Conveyancing Act 1919 naming the Regional Stormwater Authority (Sydney Water) as the prescribed authority, which can only be revoked, varied or modified with the consent of the Regional Stormwater Authority and which provides for appropriate access to all trunk drainage land for maintenance at no cost to the Regional Stormwater Authority must be registered on the title of the land.

- 95 The permanent stormwater management system must continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.

Note: *This does not include any passively irrigated street trees that may be transferred to the relevant roads authority. This also does not include trunk drainage infrastructure for which maintenance and operation may be transferred to the Regional Stormwater Authority.*

- 96 All on-lot stormwater infrastructure (excluding the trunk drainage corridor), including bio-retention basins, shall remain under the ownership, control and care of the registered proprietor of the lots.

Note: *This does not include any passively irrigated street trees that may be transferred to the relevant roads authority. This also does not include trunk drainage infrastructure for which maintenance and operation may be transferred to the Regional Stormwater Authority.*

- 97 The Applicant must not carry out construction, other than those works approved under this consent, on land shown as 'potential landscape irrigation areas' unless the site is connected to the Regional Stormwater Scheme or an alternative Stormwater Management System for the site has been approved by Council.
- 98 The Applicant must ensure any stormwater that is harvested for reuse during the interim stormwater management phases is first treated and disinfected in accordance with Australian Guidelines for Water Recycling: Managing Health and Environmental Risks: Stormwater harvesting and reuse (NRMCA, EPHC and NHMRC 2009).
- 99 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.
- 100 **Prior to the issue of any Subdivision Works 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.
- 101 **Prior to the issue of any 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 AS2890 for the relevant vehicle.
- 102 All parking spaces, loading zones, parking aisles and manoeuvring areas are to be kept clear of stored materials, products and waste materials such that these areas remain unobstructed and allow for the safe movement of vehicles.
- 103 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.
- 104 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.

- 105 Only vehicles up to and including 30m long PBS Level 2 Type B vehicles are permitted to enter and exit the site.

Landscaping

- 106 All landscape works are to be constructed in accordance with the stamped approved Landscape Plans and Strategy and ensure compliance with Chapter C6 – Landscape Design and Section 2.9 of Appendix F4 – Technical Information within Penrith Development Control Plan 2014.

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.

- 107 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.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received and endorsed. 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.

- 108 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.

- 109 The landscaping of the development shall adhere to the bushfire management strategies as outlined in Section 5 of the approved Bushfire Protection Assessment, prepared by ABPP, dated 20/11/2022.

Subdivision

110 Work on the subdivision is not to commence until:

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

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

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

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

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

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

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

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

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

113 **Prior to the issue of any Subdivision Certificate**, the following easements shall be created on the plan of subdivision:

- a) Easements for drainage
- b) Right of carriageway
- c) Any other easements identified during the construction process

Development Contributions

- 114 **Prior to the issue of a Subdivision Certificate or Construction Certificate** (as required by the contributions plan or agreed by Council), the Applicant must pay contributions to Council as required in accordance with the Penrith City Mamre Road Precinct Contributions Plan 2022.
- 115 A special infrastructure contribution must be made in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Determination 2022 (as in force when this development consent takes effect).

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

More information

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

Certification

- 116 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.

Operation of OSSM

117 **Prior to the issue of a Final Occupation Certificate**, a restriction applies to user and positive covenant, relating to connection to Sydney Water's Regional Stormwater Scheme and decommissioning of all other water harvesting infrastructure on site, upon the Regional Stormwater Scheme being available to the site. 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.

118 **Prior to the commencement of earthworks for the development**, the Applicant must design and detail the erosion and sediment control measures for the site to ensure the construction phase IWCM controls in the MRP DCP are achieved. Detailed Erosion and Sediment Control Plans (ESCP) and drawings must:

- a) be prepared by a Chartered Professional Erosion and Sediment Control (CPESC) specialist;
- b) be prepared in accordance with Managing Urban Stormwater: Soils and Construction – Volume 1: Blue Book (Landcom, 2004) and with the WSUD design principles set out in the Technical Guidance for Achieving Wianamatta South Creek Stormwater Management Targets (NSW Government, 2022);
- c) include:
 - i) each major phase of earthworks and construction including catchment plans and calculations and sizing for all major drainage and sediment controls for each phase;
 - ii) the type of sediment basin, details of all functional components and calculations demonstrating compliance with the DCP;
- d) demonstrate the timing and sequencing of earthworks will be managed to ensure the construction phase stormwater quality targets can be met;
- e) detail the timing, methods and performance requirements for stabilisation of disturbed areas;
- f) detail measures to manage external catchment flows and dispersive soils;
- g) details of how the proposed erosion controls outlined in the plan will be monitored to ensure management remains effective; and
- h) detail measures to protect passively irrigated street trees during construction works, if these are installed before construction is completed

The Applicant must:

- a) not commence earthworks until the Erosion and Sediment Control Plan is approved by the Development Services Manager and Sydney Water;
- b) implement the most recent version of the Erosion and Sediment Control Plan for the duration of earthworks and construction, and
- c) must ensure delivery and operation of all construction phase erosion and sediment controls on the site is supervised and certified by a CPESC. Monthly audits are to be completed by CPESC and kept on record for the duration of the construction and an additional 12 months following completion of construction works.

- 119 Any road construction proposed under future development on the site must incorporate passively irrigated street trees in the road design to the satisfaction of the relevant road authority. The design must be prepared in consultation and approved by Penrith City Council **prior to the issue of a Subdivision Works Certificate.**
- 120 Within three months of the date of this consent, or as otherwise agreed with Council, the Applicant must design the stormwater management system to the satisfaction of Council. The stormwater management system design must:
- (a) be prepared in consultation with the DCCEW, Sydney Water and Council and include written evidence of the outcomes of the consultation process and how the recommendations have been incorporated into the stormwater management system design;
 - (b) be prepared and certified by a suitably qualified chartered professional engineer with experience in modelling, design and supervision of WSUD systems, whose appointment has been endorsed by Council;
 - (c) be consistent with the approved plans;
 - (d) include all private, Council and trunk drainage infrastructure within the site including connections to adjacent landholdings;
 - (e) be designed in accordance with the Technical Guidance and demonstrate:
 - (i) through MUSIC modelling, how the waterway health objectives and targets set out in the MRP DCP and Technical Guidance will be achieved;
 - (ii) how the development will ultimately connect to the Regional Stormwater Scheme and how the interim measures (such as the water reuse components of on-site detention tanks, bioretention systems and rainwater tanks) will be decommissioned once the development is connected to the Regional Stormwater Scheme;
 - (iii) that all stormwater management devices contain an impermeable liner and all naturalised trunk drainage (or other open drainage) is either lined with an impermeable liner, or ameliorated (i.e., gypsum), and compacted to a suitable depth and topsoiled (AS44119) to limit infiltration to soils;
 - (f) ensure proprietary devices are located on private land and only include sediment and nutrient removal if certified under Stormwater Quality Improvement Device Evaluation Protocol (SQIDEP);
 - (g) ensure gross pollutant traps are appropriately sized and designed in accordance with the Infrastructure Design Guidelines;
 - (h) demonstrate maintenance access driveways to water storage or bio-retention basins are designed in accordance with Council's specifications;
 - (i) demonstrate that sufficient land is reserved on-site for stormwater management purposes (such as irrigation areas and undeveloped areas), to ensure the development meets the waterway health objectives and targets in the MRP DCP and Technical Guidance, unless an alternative stormwater management strategy has been approved by Council;
 - (j) include landscape drawings that include planting details of the WSUD systems;

(k) include certification (and appropriate designed checklists) of the civil and landscape drawings by the chartered professional engineer appointed under (b) above, that the design drawings comply with the Technical Guidance; and

(l) include evidence that the design and mix of WSUD infrastructure has considered ongoing operation and maintenance, including a detailed lifecycle cost assessment (including capital, operation / maintenance and renewal costs over 30 years).

121 The Applicant must:

(a) not commence earthworks until the design required by Condition 120 is approved by Council;

(b) ensure construction of the stormwater management system is supervised and certified by a suitably qualified chartered professional engineer with experience in modelling, design and supervision of WSUD systems; and

(c) implement the stormwater management system approved by Council prior to the commencement of operation of the first warehouse building.

122 **Prior to the issue of a Subdivision Works Certificate**, the Applicant must design the trunk drainage infrastructure on the site, to the satisfaction of Council. The trunk drainage infrastructure must:

- (a) be designed in consultation with the Regional Stormwater Authority;
- (b) be integrated into the Stormwater Management System Design required under Condition 120;
- (c) be generally consistent with the approved plans and the Infrastructure Design Guidelines 2022 or its latest version, unless otherwise agreed with the Regional Stormwater Authority;
- (d) be designed so that the naturalised trunk drainage channel conveys, as a minimum, critical 1% AEP overland flows where the catchment area upstream of the commencement of the trunk drainage exceeds 15 ha or where overland flows are unsafe to pedestrians and vehicles, whichever occurs first;
- (e) be supported by hydraulic modelling that addresses the Infrastructure Design Guidelines and the requirements outlined in consultation with the Regional Stormwater Authority;
- (f) ensure external catchments are drained to the trunk drainage channel;
- (g) demonstrate alignment with the upstream neighbouring stormwater drainage channel;
- (h) include appropriate connections from the trunk drainage channel on-site to the trunk drainage infrastructure downstream of the site;
- (i) include landscape drawings showing planting details; and
- (j) include adequate access for maintenance by the Regional Stormwater Authority, in accordance with the Infrastructure Design Guidelines, including provision of an easement as required by Condition 94.

123 The Applicant must:

- (a) not commence earthworks until the design required by Condition 122 is approved by Council;
- (b) ensure construction of the trunk drainage infrastructure is supervised and certified by a suitably qualified chartered professional engineer with experience in modelling, design and supervision of WSUD systems; and
- (c) implement the trunk drainage infrastructure approved by Council prior to the commencement of operation of the first warehouse building.

- 124 **Prior to commencement of operation of the first warehouse building in the development**, the Applicant must prepare a Water and Stormwater Management Plan to the satisfaction of Council. The plan must:
- (a) be prepared by a suitably qualified chartered professional engineer with experience in modelling, design and supervision of WSUD systems, whose appointment has been endorsed by Council;
 - (b) be prepared in consultation with DCCEEWS, Sydney Water and Council;
 - (c) comply with the requirements of the Technical Guidance for the preparation of a Water and Stormwater Management Plan;
 - (d) demonstrate how the development will comply with the stormwater quality and quantity targets in the Technical Guidance;
 - (e) be consistent with the design approved under Condition 120;
 - (f) include:
 - (i) detailed engineering drawings for all WSUD elements including plan views, cross-sections and long sections;
 - (ii) detailed landscape drawings with topsoil requirements, planting schedules and hardscape (maintenance access) details;
 - (iii) an operation and maintenance plan for the WSUD measures;
 - (g) include a protocol for investigating any non-compliances with the IWCM controls in the MRP DCP and the waterway health objectives and targets in the Technical Guidance and detail the contingency measures that would be implemented to address non-compliances;
 - (h) detail triggers for a review of the plan, including, but not limited to a review of the plan within 6 months of the Regional Stormwater Scheme being available for the site to connect to; and
 - (i) include certification (and appropriate designed checklists) for the WSUD measures by the chartered professional engineer appointed under (a), that the detailed design complies with the Technical Guidance.
- 125 The Applicant must:
- (a) not commence operation of the first warehouse building until the Water and Stormwater Management Plan required by Condition 120 is approved by Council; and
 - (b) implement the most recent version of the Water and Stormwater Management Plan approved by Council for the duration of the development.

Appendix 1 – Mamre Road Precinct Development Control Plan 2021

The development site is located within the Mamre Road Precinct. As such, an assessment of the proposal against the relevant controls of the *Mamre Road Precinct Development Control Plan 2021* (MRP DCP) is provided below:

2.2 Biodiversity

As previously discussed throughout this report, the site is identified as 'Certified - Urban Capable' land. an assessment of the likely impact on biodiversity of biodiversity certified land is not required and the consent authority is not requires to take into consideration the likely impact on biodiversity of the development carried out on that land.

Notwithstanding this, the application was supported with a Threatened Species Assessment and Vegetation Management Plan. The application was referred to Council's Biodiversity Officer who confirmed no further assessment is required and is satisfied that the development is unlikely to have a negative impact on threatened species combined with a buffer of more than 500m from the native vegetation, provided the mitigation measures outlined within the Vegetation Management Plan regarding weed eradication and management are adhered to via a recommended condition of consent.

2.3 Riparian Land

The proposal does not include the clearing of native vegetation within the mapped riparian corridor. However, extensive rehabilitation and regeneration is proposed as the existing watercourse is significantly degraded. The proposal also seeks to partly realign a tributary of South Creek. Subsequently, the application is classified as 'integrated development' and was referred to the Department of Climate Change, Energy, the Environment and Water (DCCEEW) (previously Department of Planning and Environment - Water) and General Terms of Approval were provided, dated 4 April 2024.

2.4 Integrated Water Cycle Management

Within the Mamre Road Precinct, each new development must provide sufficient stormwater infrastructure to manage water runoff from large areas of hardstand, roofs and roads. There is currently limited stormwater infrastructure in the MRP and design works to develop a regional stormwater scheme are currently being undertaken by Sydney Water. In the meantime, each development site must manage stormwater on site in the interim to ensure flows do not increase downstream causing flooding, and the water is treated to ensure discharges from the site do not contain contaminants that would impact on the receiving waterways in the Wianamatta South Creek catchment. The MRP DCP is supported by detailed guidance documents to ensure compliant schemes are proposed in this regard.

Ultimately once the permanent stormwater infrastructure is provided by Sydney Water, each development will be able to connect to the regional scheme and some of the on-site WSUD measures will be redundant. The challenge for early development proposals in the MRP is the need to provide interim stormwater infrastructure at minimal cost that will meet the water quality objectives of the MRP DCP, noting the infrastructure may only be required for a few years. There is also a need to retain sufficient undeveloped land on each site to ensure that stormwater flow and quality can be adequately managed.

Proposed Water Management Strategy

The proposed water management strategy for the development has gone through a number of iterations since the application was first lodged, and the final strategy deemed to be supportable by both Council and Sydney Water involves a mix of:

- an on-site detention basin
- bio-retention basins throughout the site and gross pollutant traps
- reuse tanks under parking areas
- irrigation of undeveloped areas of the site with water from the detention basin and reuse tanks
- rainwater tanks to capture roof water for reuse in toilet flushing and irrigation
- minor realignment of riparian corridor and southernmost flow path
- naturalised open channel flow path (trunk drainage corridor)

Street trees within public roads are to be passively irrigated, where accepted by the road authority. It is noted that the preferred design option is still under consideration by Council and therefore, conditions of consent are recommended requiring this detail be prepared in consultation with Council prior to the issue of a Subdivision Works Certificate.

Connection to the Regional Scheme

As noted above the proposed development must connect to the Regional Scheme once it becomes available. In this regard, the application proposes interim stormwater scheme for the site to the satisfaction of Sydney Water and Council. Documentation was submitted with the application to confirm the intention to connect to the regional scheme once it becomes available. In this regard, conditions of consent have been recommended requiring detailed designs of the stormwater management system to demonstrate how the development will ultimately connect to the Regional Stormwater Scheme.

The documentation has also confirmed to decommissioning on-lot bioretention systems, rainwater tanks and any other proposed water harvesting and re-use infrastructure that will not be part of the regional scheme. This will be ensured via recommended conditions of consent and a positive covenant.

Sediment Control and Erosion - Construction Phase

Furthermore, a key issue for large scale earthworks in the MRP is the control of sediment from exposed soils to ensure it does not enter waterways. The technical guidance documents supporting the MRP clearly detail the requirements for construction management, noting the specific WSUD measures required. The guidance states that development applications must include conceptual designs that include the site, catchment and key features of the erosion and sediment controls on scaled drawings. A specific requirement is the need for high efficiency sediment basins to effectively manage large volumes of runoff while meeting the targets for sediment control.

In this regard, the submitted plans adopt high efficiency sediment basins which are deemed to be satisfactory, noting further detailed designs are to be submitted prior to the commencement of works which is ensured via recommended conditions of consent.

Summary

Council has considered the Applicant's water management strategy for the development and erosion and sediment control plan for the construction phase in close consultation with government agencies. Council, DCCEEW and Sydney Water are satisfied the proposed strategy meets the requirements of relevant technical guidance and is tailored for the site conditions. The strategy reserves sufficient undeveloped land for irrigation of stormwater and allows for connection to the regional stormwater scheme once it is available. As part of the application, the Applicant delivers components of the regional stormwater infrastructure that is located within its site (i.e. the naturalised trunk drainage corridor and creek realignment) and the delivery of this infrastructure would be subject to the detailed design requirements of Sydney Water. With the water management strategy in place, the development is considered to meet the water flow and quality targets identified in the MRP DCP and associated technical guidance.

Sydney Water has recommended conditions for detailed design of the ESCP, stormwater system and trunk drainage corridor. The designs are to be prepared in consultation with DCCEEW, Sydney Water and Council, and approved by Council. Sydney Water have also recommended a condition requiring the Applicant prepare a water and stormwater management plan detailing how the system would be monitored and managed throughout operation to ensure the quality and flow targets are met.

With these conditions, it has been assessed that the development incorporates sufficient stormwater infrastructure to manage stormwater flows and quality to achieve the waterway health targets of the DCP and be consistent with Sydney Water's Stormwater Scheme Plan.

2.5 Flood Prone Land

The proposed development meets flooding and overland flow planning requirements. The development does not impact or encroach on existing flood affected areas and modelling shows that local post development flows from the site, in conjunction with flood management measures to be adopted in the flooding assessment demonstrate that the site discharge will not adversely affect any land, drainage system or watercourse as a result of the development.

2.6 Aboriginal Heritage

As per the Mamre Road DCP (as provided in Figure 1 below), the site is known to contain Aboriginal Heritage and areas of moderate-high Aboriginal archaeological potential.

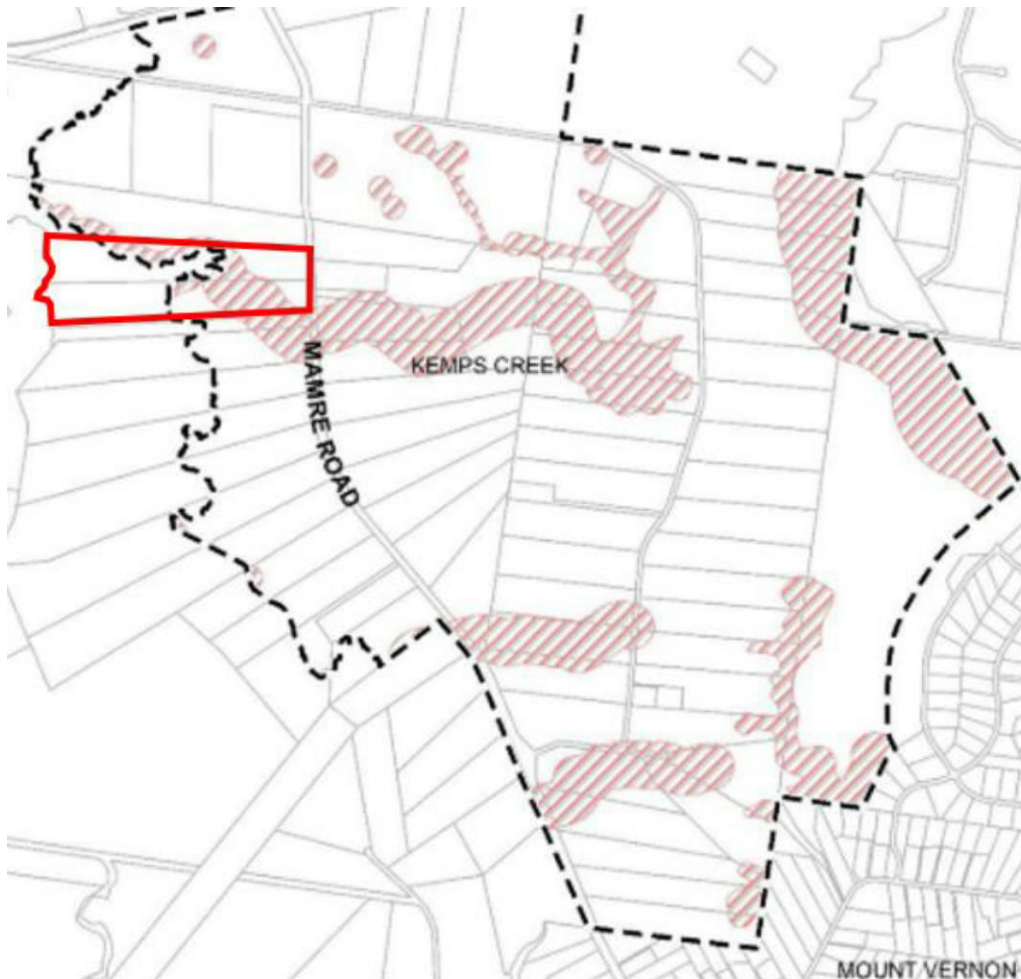


Figure 1. Areas of Aboriginal Heritage.

Source: Mamre Road Precinct Development Control Plan 2021.

Therefore, an Aboriginal Cultural Heritage Assessment (ACHA) was submitted with the application. It is noted the ACHA is for the entire site, with the understanding that the proposed works under this development application is known as Stage 1, and future works located west of the collector road are known as Stage 2.

The archaeological survey for the project identified four (4) areas of Potential Archaeological Deposit (PAD) associated with raised areas within the floodplain associated with South Creek. However, three (3) of the identified PADs are located outside of the development area whilst one (1) PAD is partly located in the future development area of Stage 2 (i.e. west of the north/south collector road and therefore not impacted by the proposed development under this application.

Notwithstanding this, the submitted ACHA has provided recommendations which will be adhered to via recommended conditions of consent. These recommendations relate to providing exclusion fencing and barriers around the designated Stage 2 works area during Stage 1 construction, and an unexpected finds protocol.

2.8 Bushfire Prone Land

The land is identified as 'bushfire prone land'. Subsequently, the application was accompanied by a Bushfire Protection Assessment, prepared by Australian Bushfire Protection Planners Pty Ltd, which assessed the proposed development against the aims and objectives of the Planning for Bushfire

Protection 2019 (PBP).

The assessment recommended the provision and maintenance of an 11m defendable space to the southern and western sides of the warehouses and be maintained as an Inner Protection Area (IPA) under the terms of a positive covenant. Furthermore, specific bushfire construction standards have been recommended, ensuring a BAL 19 construction is provided to the southern and western elevations of Warehouse 1, and a BAL 12.5 construction is provided to the southern and western elevations of Warehouse 2. Additional construction standards have also been recommended in regards to materials used for external access doors, windows, vents, and roof ventilators.

Council has reviewed the report and recommendation and is satisfied that the report adequately demonstrates compliance with the aim and objectives of the PBP and Building Code of Australia, subject to recommended conditions of consent.

2.9 Salinity

A Geotechnical Investigation Report was submitted with the report which concluded the site is suitable for the development of industrial purposes and accordingly it is considered the proposal is consistent with the associated salinity requirements of the MRP DCP.

2.10 Contaminated Land

The application was supported by a Preliminary Site Investigation (PSI) which identified a number of areas of concern whereby samples were taken from 20 test pits, 3 stockpiles, and 3 potential asbestos fragments. The PSI concluded 2 samples exceeded the ecological investigation limits and asbestos was also confirmed as being present. Whilst the PSI concluded that the site was 'generally suitable' for the proposed development, recommendations were made to remove the stockpiles present, bitumen, and asbestos containing material, as well as the demolition of the existing dwelling, building and associated structures.

A Remedial Action Plan (RAP) was therefore also submitted which identified 7 areas across the site that are to be remediated, and included various remediation strategies to address the identified contamination.

The application was referred to Council's Environmental Management section who confirmed that whilst the proposed remediation strategies were satisfactory, there were a number of aspects that required further clarification including:

- The RAP included the remediation of parts of the land that were not subject to this development application,
- The RAP has not considered the ENZ and RE1 zones whereby some identified areas are located within close proximity, thereby altering the criteria of assessment.
- The RAP incorrectly identifies the remediation works as Category 2. However, all remediation work within the Hawkesbury-Nepean conservation area sub-catchment are Category 1 works.

The applicant was notified of these matters and subsequently submitted an updated Remedial Action Plan which was considered satisfactory by Council's Environmental Management section. Therefore, subject to recommended conditions of consent, the site is acceptable for the proposed development.

2.11 Aviation Safeguarding

The application was supported with an Aeronautical Impact Assessment which concluded the proposed development will not cause any impact regarding building heights, noise, lighting, emissions, wildlife hazards, and communication, navigation and surveillance systems which is considered acceptable given the nature and scale of the development and site.

2.14 Utilities Services

A Service Infrastructure Assessment was submitted with the application. Conditions of consent have been recommended ensuring utilities including water, sewer, power and telecommunications. Furthermore, as discussed above, the development will also transition and connect to Sydney Water's regional stormwater scheme for the Mamre Road Precinct as the lots are continued to be developed. In this regard, the application includes interim stormwater solutions until further detail is worked through with Sydney Water. Sydney Water have agreed to this approach and subsequently recommended extensive conditions of consent in this regard.

2.15 Transport Investigation Areas

The subject site contains a frontage to Mamre Road which is identified as a Transport Investigation Area for future widening. The front portion of the site is zoned SP2 Infrastructure accordingly. The application was subsequently referred to TfNSW who raised no objections, noting the development is not proposed within the SP2 zoned land and access is provided to a new collector industrial road and not Mamre Road.

3.1 Subdivision

The MRP DCP outlines the subdivision of land is to:

- Enable the conservation of natural and landscape features, including important fauna habitats, rare or threatened plant habitats, and designated biodiversity areas.
- Balance cut and fill as far as practicable.
- Maintain or establish native vegetation riparian corridors.
- Facilitate the precinct road network and hierarchy.

Furthermore, the MRP DCP requires access to lots to be from local or collector industrial roads, with IN1 General Industrial Lots to be a minimum of 1,000m² in total size, with a minimum 40m frontage and 35m lot width at building line.

The proposed subdivision results in:

- Lot 1 (industrial lot) = 53,779m² and frontage width of approximately 300m,
- Lot 2 (future stage land to the west consisting of IN1, RE1 and ENZ zoned land) = 312,064m², and
- Lot 3 (RE1 corridor) = 5,129m²

The proposed subdivision and design responds as practical to the topography of the site and enables the delivery of the north/south collector industrial road as required in the MRP Road Hierarchy whilst also ensuring access to the lots are provided via this road. The subdivision also enables the rehabilitation and regeneration of the riparian corridor. In this regard, the proposed subdivision is in accordance with the controls of the MRP DCP.

3.2 Views and Visual Impacts

The MRP DCP outlines the design of lots adjoining Mamre Road shall promote a high-quality landscape character, with careful consideration to the siting and scale of buildings. The application was submitted with a Visual Impact Assessment Report (VIAR) which concluded the proposal will result in minor short-to-medium term visual impacts to Mamre Road, noting extensive landscaping is provided within the Mamre Road setback to provide appropriate screening. Figure 2 below provides a photomontage of the development at Year 0 looking north at Mamre Road.



Figure 2. View Northbound from Mamre Road Year 0.
Source: Visual Impact Assessment, prepared by Habit8

Furthermore, the VIAR has concluded that the proposal will cause major/moderate short-to-medium term visual impacts to the adjoining southern property. Figure 3 and Figure 4 provides a photomontage of the proposed development from the adjoining southern property at Year 0 and Year 15.



Figure 3. View from Southern Adjoining Property Year 0.
Source: Visual Impact Assessment, prepared by Habit8



Figure 4. View from Southern Adjoining Property Year 15.
Source: Visual Impact Assessment, prepared by Habit8

However, the rehabilitated riparian corridor will act as a buffer to bulk and scale of the warehouse buildings with extensive landscaping, noting it will take a number of years for the landscaping to mature. Further, given the emerging industrial character and nature of the locality, it is considered

that visual impacts will change as the precinct is further developed. In this regard, with the proposed buffer landscaping, the visual impacts of the proposed development are considered acceptable.

3.4 Transport Network

3.4.1 Road Network, Hierarchy and Design

As per the Mamre Road Precinct Road Hierarchy (see Figure 5 below), the site is subject to a north/south collector industrial road traversing through the middle of the development site.



Figure 5. Mamre Road Precinct with Subject Site Highlighted.
Source: Mamre Road Precinct Development Control Plan 2021.

As such, the proposal includes the construction and delivery of the collector industrial road that is located on the site, in accordance with the MRP DCP. To facilitate, the Applicant has consulted with the adjoining land owners to the north to ensure the design of the road appropriately connects with the existing cul-de-sac located within the Yards Estate that has been constructed in anticipation for future connection.

As per the Civil Plans, works include the removal of the existing cul-de-sac turning head and replacement with kerb and gutter in order to provide a connection for the southern continuation of the road. A temporary cul-de-sac turning head with associated easement/right of carriageway per proposed Lot 2 for temporary access at the southern end of the collector road in the subject site will

be provided and will be removed at the time of future road extension further south. This approach is considered acceptable, noting conditions were providing in this regard for the adjoining northern development in the Yards Estate under development consent DA22/0205.

Furthermore, the proposed design of the north/south collector industrial road is in accordance with the 'typical collector road topology and cross section provided in the MRP DCP. A condition of consent is recommended requiring the collector road to be constructed and fully operational prior to the issue of an Occupation Certificate.

It is also noted an Open Space Edge Road is located on the subject land. However, the indicative location of this road is not within the subject development site. The Applicant has confirmed the design and delivery of the open space edge road will be included in future development applications as part of the development of lots west of the collector road.

3.5 Council Engineering Works and Construction Standards

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

4.2 Built form design controls

4.2.1 Building Height

The DCP states buildings should not exceed a maximum height of 20m from existing ground level. The proposed warehouse is 14.6m in total height and therefore complies with this control.

Shadow diagrams have been provided which demonstrate both buildings will not result in any unreasonable impacts to the surrounding users or public amenity, and ensures street trees, footpaths and open space areas will received direct sunlight between 11am and 2pm on the winter solstice. Any mechanical plant located on the roof will remain within the prescribed building height and will be located away from the street frontage.

4.2.2 Building Setbacks

The MRP DCP outlines the following building setback requirements:

- Lots fronting designated roads (including Mamre Road) = 20m
- Lots fronting key access roads (including collector roads) = 12m
- Rear and side boundaries = 5m
- Lots adjoining RE1 public Recreation land = 10m from the edge, unless separated by a road

The proposed development provides the following minimum setbacks:

- Mamre Road (eastern boundary): 20m from the western edge of the SP2 zoned land.
- Side boundary (southern boundary): 9m
- Side boundary (northern boundary): >28m due to easements
- Local estate road (western boundary): 12m from Warehouse 2,

These setbacks comply with the DCP.

4.2.3 Landscaping

The MRP DCP requires proposals to demonstrate a 10% tree canopy coverage on the development lot. The proposal results in a total canopy coverage of 21.9% and therefore complies.

The MRP DCP also outlines the following landscape setback requirements:

- Lots fronting Mamre Road = 10m
- Lots fronting collector roads = 6m, or 50% of the front setback from the site boundary along the road frontage
- Side boundary = no requirement.
- Lots adjoining RE1 zoned land = 5m from the edge of land, unless separated by a road

The proposal provides a 10m landscaped setback to Mamre Road, a 11m landscaped setback to the collector road, 2.5m setback to the north, and a 5m landscaped setback from the RE1 land. In this regard, the proposal provides compliant landscaped setbacks.

In addition, the MRP DCP requires a minimum of 15% of the site area to be pervious surfaces. The application has demonstrated a total permeable area of 18% is achieved and therefore complies.

Planter beds for canopy trees are also provided throughout the car park every 10 spaces. These are 1.5m in width as per the DCP.

4.2.4 Communal Areas

Two communal areas for office workers are proposed - one located to the southeast corner of Warehouse 1, and the other on the northeast corner of Warehouse 2. Given the siting of the warehouses, the location of the communal areas are appropriately located to maximise solar access as best as possible and offer seating opportunities adjacent to paving and landscaping.

4.2.5 Building Design

The proposed development has a construction cost of over \$1 million and therefore is committed to achieve a 5-star Green Star certification rating with an ambition to be carbon neutral in operations. The application was accompanied with an Ecologically Sustainable Development Report to achieve this and the recommendations will be adhered to via recommended conditions of consent.

The application was also accompanied with by an BCA Assessment Report which recommended an Access Report be provided to detail any proposed accessibility concessions to the warehouse portions of each building and be submitted at Construction Certificate stage. Conditions of consent have been recommended in this regard.

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

4.2.8 Signage and Estate Entrance Walls

Section 4.2.8 of the Mamre Road Precinct DCP provides a number of objectives and controls relating

to signage for industrial development. In particular, the Mamre Road Precinct DCP requires any signage to be in character with architectural and landscape features, minimise visual impact, prevent distraction to motorists, and display information concerning the identification of the premises (including the name of the occupier and the activity conducted on the land).

The MRP DCP outlines freestanding pylon signs are not to exceed 10m in height and 2m in width. The proposal, as amended, ensures the proposed estate pylon sign complies with this requirement.

Similarly, the business identification type wall signs - 1 on each street frontage per warehouse - are modest in size and provides a suitable means of identifying the premises from the public domain.

4.2.9 Safety and Surveillance

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

4.2.10 Lighting

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

4.2.11 Fencing

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

4.3 Amenity

The application has been accompanied by an Acoustic Assessment Report, which has considered both construction and operational elements of the development, and assessed such against the noise emission criteria applicable to the site. The Acoustic Assessment Report concluded that the proposal complies with associated requirements, including the NSW Noise Policy, subject to an interim 3m acoustic barrier, and assessment of the proposal by Council's Environmental Management Officer raised no objections, subject to recommended conditions of consent. It is recommended that associated conditions be imposed, which shall provide for compliance with the associated provisions of Part 4.3.

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

4.4 Earthworks and Retaining Walls

It is considered the proposal is in keeping with the existing topography of the land and has been

designed to balance cut and fill as much as possible. Where retaining walls are required, tiered retaining walls are proposed in accordance with the MRP DCP. It is noted a conceptual erosion and sediment control plan has been submitted and a detailed plan will be prepared prior to the commencement of works. Conditions of consent have been recommended in this regard.

4.5 Waste Minimisation and Management

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

4.5 Access and Parking

4.6.1 Parking and Manoeuvring

As per the MRP DCP, 'Warehouses or distribution centres' are required to provide 1 car parking space per 300m² of gross floor area or 1 space per 4 employees (whichever is the greater). While in addition, 'ancillary office space' is required to provide 1 car parking space per 40m² of gross floor area.

Both warehouses are required to be provided with 45 car parking spaces each as per their gross floor area and office spaces. Each warehouse is provided with 46 car parking spaces and therefore complies.

Furthermore, bicycle parking is to be provided at 1 space per 600m² of gross office space, and 1 space per 1000m² gross floor area of industrial activities. In this regard, each warehouse is to be provided with 11 bicycle spaces. 12 spaces are provided per warehouse and therefore complies.

In addition, electric vehicle charging spaces are also included for each warehouse.

4.6.2 Driveways

Road access is provided via the collector industrial road. Each warehouse is serviced by its own truck entry/exit driveway which have been designed to accommodate vehicles up to and including 30m long PBS Level 2 Type B vehicles. A condition of consent is recommended ensuring restricting access to 30m PBS Level 2B vehicles in this regard.

Furthermore, both warehouses are also serviced by a shared driveway for car parking which have been designed to provide for B99 vehicles, in accordance with AS 2890.1. A condition of consent is recommended to ensure the full access driveway design is in compliance with both AS 2890.1 and AS2890.2.

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