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

| **Clause** | **Assessment** | **Compliance** |
| --- | --- | --- |
| **Appendix 2, 2.3 Zone objectives and land use table**The land use table for each zone sets out what development is permitted without consent, permitted with consent and prohibited.The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within a zone.The B5 Business Development zone objectives for this site are:* To enable a mix of business and warehouse uses and specialised retail uses that require a large floor area, in locations that are close to, and that support the viability of, centres.
* To provide for a wide range of employment generating development.
* To provide for a mix of ancillary uses to support the primary function of providing employment generating development.
* To maintain the economic strength of centres by limiting the retailing of food, clothing and convenience shopping.
* To provide for a range of uses, including recreational uses and function centres, that complement other permissible employment generating land uses within the zone.
 | The development is consistent with the objectives of the B5 zone in that it will support the economic viability of the centre and generate employment opportunities. It will provide a child care service for local residents and workers, without causing any unreasonable impacts on the surrounding land uses. | Yes |
| **Appendix 2, 2.6A Demolition**Development consent is required to demolish a building or work (unless the demolition is exempt or complying development under another environmental planning instrument). | Consent is sought for partial demolition and reconstruction of the existing driveway entry off Gregory Hills Drive. Conditions are recommended to ensure all waste materials are disposed of to a licensed waste facility and for traffic management during the construction phase. Vehicles visiting the SOMA complex will be able to enter and exit the adjacent site car parks via Digitaria Drive during the construction period. | Yes |
| **Appendix 2, 4.3 Height of buildings**The consent authority may grant development consent for development on land within Zone B5 Business Development or Zone IN1 General Industrial, that does not exceed 15 metres in height above ground level (existing), if the land has frontage to:1. the following land as shown in the Oran Park Precinct Development Control Plan or the Turner Road Precinct Development Control Plan:
2. Gregory Hills Drive,
3. Camden Valley Way,
4. The Northern Road,
5. Dick Johnson Drive, or
6. land within Zone RE1 Public Recreation or Zone RE2 Private Recreation.
 | The site has frontage to Gregory Hills Drive, therefore the maximum building height permitted is 15m. The maximum building height proposed is 8.959m inclusive of a small lift overrun and the roof’s perimeter walls/parapets, as measured from existing ground level. | Yes |
| **Appendix 2, 5.9 Preservation of trees or vegetation**Development consent is required for tree removal and tree related works. | Consent is being sought to remove 10m2 of small shrubs and ground covers for alterations to the existing driveway. This will be offset by new deep soil plantings, including Ornamental Pear and Lilly Pilly trees and a mix of shrubs, grasses and ground covers. | Yes |
| **Appendix 2, 5.10 Heritage conservation**Before granting development consent in respect of a heritage items or a heritage conservation area, the consent authority must consider the effect of the proposed development on the heritage significance of the item or area concerned.The consent authority may require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the item or heritage conservation area concerned. The submission of a heritage conservation management plan may also be required.Before granting consent to the carrying out of development on an archaeological site the consent authority must notify the Heritage Council of its intention to grant consent and take into consideration any response received within 28 days after the notice is sent.Before granting consent to the carrying out of development in an Aboriginal place of heritage significance the consent authority must:1. consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
2. notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

Development consent may be granted for any purpose of a building that is a heritage item, or the land on which such a building is erected, if the consent authority is satisfied as to a number of matters listed by this clause; including if the conservation of the item or place is facilitated by the granting of consent. | The site does not contain, and is not in proximity to, any European heritage items or heritage conservation areas.The submitted Aboriginal Heritage Due Diligence Report confirms that there are no registered Aboriginal objects within the site area. Due to the site’s historical disturbance from bulk earthworks completed during the parent subdivision, the proposed activities are unlikely to harm any remaining Aboriginal objects. As such, an Aboriginal Heritage Impact Permit is not required. Standard conditions for unexpected finds are recommended. | Yes |
| **Appendix 2, 6.1 Public utility infrastructure**Development consent must not be granted for development on land unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required. | Referral responses from Sydney Water and Endeavour Energy confirm that essential water, sewer and electrical infrastructure is available to service the development, with minor adjustments likely required to sewer pipes, subject to further assessment by Sydney Water at the Section 73 Certificate stage. The development can connect to an existing padmount substation facing Digitaria Drive on adjacent Lot 8440 from the south-western corner of the site. Conditions are recommended to ensure all service authority approvals are obtained prior to the issue of any Construction Certificate. | Yes |

State Environmental Planning Policy (Transport and Infrastructure) 2021

| **Clause** | **Assessment** | **Compliance** |
| --- | --- | --- |
| **2.48 Determination of development application – other development**For development comprising the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole, the consent authority must refer the application to the supply authority and consider comments received within 21 days. | Driveway and landscaping works are proposed along the southern frontage in proximity to existing underground power lines and street lighting in Gregory Hills Drive. The application was referred to Endeavour Energy who have recommended approval subject to conditions to ensure the excavation and construction works are carried out safely near this infrastructure. A condition for compliance with Endeavour Energy’s requirements is recommended. | Yes |
| **2.120 Impact of road noise or vibration on non-road development**For centre-based child care facilities on land adjacent to a road corridor with an average annual daily traffic volume of >20,000 vehicles, and where the consent authority considers the development is likely to be affected by road noise or vibration, the consent authority is to consider any guidelines issued by the Planning Secretary, prior to determining the application. | The Transport for NSW Traffic Volume Map (14B) for Noise Assessment for Buildings on Land Adjacent to Busy Roads does not identify Gregory Hills Drive as exceeding 20,000 vehicle movements per day; therefore, the development is not required to be assessed against the NSW ‘Development Neal Rail Corridors and Busy Roads’ guidelines.Notwithstanding, the submitted acoustic report has assessed noise intrusion from road traffic and concludes that the sleeping and play areas (internal and external) can comply with the noise criteria specified in the NSW Road Noise Policy 2011, subject to various mitigation measures. These include acoustic glazing and seals, wall and roof linings/insulation and a 1.8m high solid barrier wall around the external play area. Council’s Environmental Health Officer supports the recommendations above and conditions have been included to ensure compliance. | Yes |
| **2.122 Traffic-generating development**For new premises of the ‘relevant size or capacity’ as detailed in Schedule 3, the consent authority is required to:1. refer the application to Transport for NSW (TfNSW) within 7 days, and
2. take into any consideration:
3. any submission received from TfNSW within 21 days, and

(ii) the accessibility of the site concerned, including:1. the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
2. the potential to minimise the need for travel by car and to maximise movement by freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development. | The development does not meet the thresholds for traffic generating development in Schedule 3, in that:* the site is accessed from a local sub-arterial road (not a classified road or within 90m of a classified road, the nearest being Camden Valley Way 500m to the west);
* the car park contains 63 spaces (≥200 spaces is the trigger);
* the development will generate a maximum of 158 vehicle movements in the morning peak hour and 138 movements in the afternoon peak hour (≥200 vehicles per hour is the trigger).

Notwithstanding, the application was referred to Transport for NSW (TfNSW) for comment, due to concerns regarding cumulative traffic impacts in the vicinity, particularly near the intersection of Holborn Avenue, Central Hills Drive and Gregory Hills Drive. TfNSW advised that they had no concerns regarding impacts on Camden Valley Way. They suggested Council staff assess the proposed parking and site access arrangements. Refer to the assessment report and DCP assessment tables for further comments on these aspects.The applicant later revised the traffic report at Council’s request to include more recent modelling and a greater sensitivity rate. The revised report concludes that the development will have no detrimental impacts on the operation of the surrounding street network. The revised report was re-sent to TfNSW, who have not raised any further concerns.  | N/A |
| **2.124A Development permitted with consent – generally** The installation of electric vehicle (EV) charging units may be carried out with consent if the unit(s) do not obstruct:* vehicular, cyclist or pedestrian access to or from, or entry into, a building;
* cyclist or pedestrian movement along a cycleway or footpath;
* any structure, device, fixture or equipment used for firefighting or fire protection, including a fire hydrant.
 | Consent is being sought for four EV charging bays (spaces 38 – 41) near the car park entry.These spaces will not obstruct access into the car park or building; however a condition is recommended that spaces 01 to 04 and 40 to 43 be signposted for staff parking only, to prevent excessive queuing in the driveway off Gregory Hills Drive in peak periods. The EV spaces will not impede cyclists or pedestrian access into the building, or any paths. They will also not obstruct any firefighting equipment, including the fire hydrant booster located in the landscaping between the front setback and the driveway. | Yes |
| **3.22 Centre-based child care facility – concurrence of Regulatory Authority required for certain development** Concurrence from the Regulatory Authority for NSW is required if:* The indoor unencumbered space requirements in Section 107 of the Education and Care Services National Regulations are not achieved; or
* The outdoor unencumbered space requirements in Section 108 of the Regulations are not achieved.
 | Concurrence is not required, as the proposal achieves compliance with the minimum unencumbered space requirements prescribed by the Regulations.Sections 107 and 108 of the Regulations require a minimum of 3.25m2 of unencumbered indoor space and 7m2 of unencumbered outdoor space, per child. This development proposes:Indoor play space – 655.6m2 / 197 children = 3.33m2 / child (with doorways, craft, lockers, storage and toilets excluded).Outdoor play space – 1,381.1m2 / 197 children = 7.01m2 / child (with storage excluded but covered verandah included). | N/A |
| **3.23 Centre-based child care facility – matters for consideration by consent authorities**The consent authority is to consider the NSW Child Care Planning Guideline prior to determining an application. | As assessment of the application against the provisions of the NSW Child Care Planning Guideline is included as an attachment to the assessment report. The proposal achieves full compliance with the Guideline.  | Yes |
| **3.26 Centre-based child care facility – non-discretionary development standards** The consent authority must not require more onerous standards than the following:* location – the development may be located at any distance from an existing or proposed early education and care facility;
* the indoor or outdoor unencumbered space requirements in the Regulations;
* site area and site dimensions – the development may be located on a site of any size and have any length of street frontage or any allotment depth;
* colour of building materials or shade structures – the development may be of any colour or colour scheme unless it is a State or local heritage item or in a heritage conservation area.
 | There are several child care centres in the vicinity of the site, including Lot 8441 immediately to the north. In accordance with this clause, the proximity of the site to these other centres is not a matter for concern.As noted in the assessment of Section 3.22 above, the proposal achieves full compliance with the minimum unencumbered space requirements prescribed by the Regulations.The site’s area (3,502m2) and dimensions (49.83m x 70.275m) are sufficient to accommodate the scale of the proposed centre and in accordance with this clause, are not a matter for concern.The site is not a state or local heritage item or within a heritage conservation area. The application proposes a mostly neutral colour scheme with complementary bright accents, that are appropriate for the commercial setting and the developing character of the surrounding area. | Yes |
| **3.27 Centre-based child care facility – development control plans** The following provisions do not apply to the assessment of a centre-based child care facility, regardless of whether they are listed as controls or provisions within a development control plan (DCP):* Operational management plans or arrangements (including hours of operation);
* Demonstrated need or demand for child care services;
* Proximity of facility to other early education and care facilities;
* Any matters contained in the Guideline.
 | It is noted that the requirements prescribed by the Transport and Infrastructure SEPP, Regulations and Guideline prevail to the extent of inconsistency with the requirements of any DCP.Notwithstanding, the proposal complies with the requirements of these documents, in addition to all relevant SEPP and DCP controls, as outlined in the attachments to the assessment report (excluding minor signage variations). | Yes |

State Environmental Planning Policy (Industry and Employment) 2021

| **Section** | **Assessment** | **Compliance** |
| --- | --- | --- |
| **3.1 Aims, objectives, etc.**A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied that the signage:* is compatible with the desired amenity and visual character of an area, and
* provides effective communication in suitable locations, and
* is of high quality design and finish.
 | The proposed seven (7) signs are consistent with these aims in that they are limited to identifying the proposed child care centre and its location within the SOMA wellness precinct. The signage locations have been modified at the request of Council staff to provide equal display rights for each business involved. The revised signs are more harmonious with the building’s materials and colours palette.The signs are compatible with the surrounding area and will assist in wayfinding and business identification. | Yes |
| **Schedule 5 Assessment criteria - 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?
* Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?
 | The signs are consistent with the types of illuminated wall and directional signs located in the employment area. No changes are proposed to the existing 3m high pylon ‘P’ parking sign, or the multi-tenancy pylon sign located immediately to the west of the driveway on Gregory Hills Drive. | Yes |
| **Schedule 5 Assessment criteria - Special areas*** Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?
 | The site is not in proximity to any environmentally sensitive, heritage or natural areas with high scenic or visual amenity. The proposed wall signs are appropriate for the commercial context in which they will be located.  | Yes |
| **Schedule 5 Assessment criteria - Views and vistas*** Does the proposal obscure or compromise important views?
* Does the proposal dominate the skyline and reduce the quality of vistas?
* Does the proposal respect the viewing rights of other advertisers?
 | The signs will be displayed on the building’s facades and will not protrude above the roofline or obscure any views.The sign locations have been revised to ensure equal viewing rights for both the child care centre and the larger SOMA wellness precinct. | Yes |
| **Schedule 5 Assessment criteria - Streetscape, setting or landscape*** Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?
* 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?
 | The display area of the signs is modest for the large wall areas they will be mounted on. The signs will not dominate these elevations.The signs are contemporary and complementary to the proposed built form. In addition to wayfinding and business identification, they will contribute added colour and articulation for the facades as viewed from the public domain.There are no more than two wall signs visible per elevation, therefore the signage scheme is not excessive.The signs will not protrude above the building or require vegetation to be maintained, to be seen. | Yes |
| **Schedule 5 Assessment criteria - 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?
* 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?
 | The signs are compatible with the scale of the surrounding and proposed built form. They are oriented to provide wayfinding for drivers and pedestrians from all directions and relate to the shared access arrangements throughout the site. | Yes |
| **Schedule 5 Assessment criteria - 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?
 | The signs will be wall mounted and do not require plinths or ancillary structures. The directional sign will be erected upon a footing at ground level. | Yes |
| **Schedule 5 Assessment criteria - Illumination*** Would illumination result in unacceptable glare?
* 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?
 | Illuminated pylon, building and wall signs are prevalent in this part of the employment area.Standard conditions are recommended to ensure the illumination levels comply with the relevant Australian Standards for obtrusive lighting and road safety.As the nearest residential premises is located >300m away, a curfew for the illumination is not required. | Yes |
| **Schedule 5 Assessment criteria - Safety*** Would the proposal reduce the safety for any public road?
* Would the proposal reduce the safety for pedestrians or bicyclists?
* Would the proposal reduce safety for pedestrians, particularly children, by obscuring sightlines from public areas?
 | The signs will not be flashing or contain moving parts.The curved directional sign will be setback a minimum of 7.5m from the front boundary. Given the split configuration of the driveway and low height of 1.2m, this sign will not impede any sightlines.There are no signs proposed that would impede vehicular or pedestrian access into or throughout the site. | Yes |