

SWCPP Ref. No.:	PPSSWC-417
DA No.:	DA24/0264
PROPOSED DEVELOPMENT:	Construction, Fit out and Use of Two Warehouse Buildings ('Warehouse 6' and 'Warehouse 7' of the Aspect Industrial Estate) and a Building containing a Cafe and a Site Maintenance Office, and Associated Works including Earthworks, Retaining Walls and Fencing
PROPERTY ADDRESS:	864 - 882 Mamre Road, KEMPS CREEK NSW 2178 844 - 862 Mamre Road, KEMPS CREEK NSW 2178 826 - 842 Mamre Road, KEMPS CREEK NSW 2178 788 - 824 Mamre Road, KEMPS CREEK NSW 2178
PROPERTY DESCRIPTION:	Lot 301 DP 1300370, Lot 303 DP 1300370, Lot 304 DP 1300370, Lot 302 DP 1300370,
CLASS OF BUILDING:	N/A
ASSESSING OFFICER	Robert Walker
APPLICANT:	Mirvac Industrial Developments Pty Ltd
DATE RECEIVED:	2 April 2024
REPORT BY:	Robert Walker, Senior Development Assessment Planner, Penrith City Council
RECOMMENDATIONS:	Approve

Assessment Report

Executive Summary

Council is in receipt of a Development Application, which seeks Development Consent, for the construction, fit out and use of two (2) warehouse buildings (a single occupancy warehouse type building and a 2 occupancy warehouse type building), the construction, fit out and use of a building containing a cafe and a site maintenance office, and associated works including earthworks, retaining walls and fencing, at 826-882 Mamre Road, Kemps Creek, being part the 'Aspect Industrial Estate'.

The site is located within the 'Mamre Road Precinct' of the Western Sydney Employment Area' and is zoned 'IN1 – General Industrial' pursuant to *State Environmental Planning Policy (Industry and Employment) 2021*. 'Warehouses or distribution centres' and 'Roads' are permitted with consent in the 'IN1 – General Industrial' zone.

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

The site is to be serviced by Sydney Water's future Mamre Road Precinct Stormwater Scheme, and therefore the application was referred to Sydney Water for comment. In response to such Sydney Water raised no objection to the proposed development, subject to conditions and it is recommended that these conditions be imposed as provided within the recommended conditions.

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

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

The estimated cost of the proposed development is \$49,127,771, accordingly pursuant to Section 2.19 and Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*, the proposal is declared to be 'Regionally Significant Development'. Therefore pursuant to Section 4.5 (b) of the *Environmental Planning & Assessment Act 1979*, the Sydney Western City Planning Panel is the 'Consent Authority'.

Following initial assessment of the application as originally made and concerns being raised with the Applicant, the application has been amended.

An assessment of the application (as amended) has been undertaken pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and has found that the proposal satisfactorily responds to key planning considerations, including in relation to urban design, scale of development, sustainability, water recycling and conservation, traffic impacts, heavy vehicle manoeuvring and car parking, landscaping outcomes, visual Impacts, and potential amenity impacts. Furthermore, assessment has found that the proposal is consistent with the 'Concept Proposal Plan' for the 'Aspect Industrial Estate', including the associated State Significant Development Consent No. 10448 (as has been modified).

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

Site & Surrounds

The subject site is located within an industrial estate, approved pursuant to State Significant Development Consent No. 10448 (SSD-10448), which is known as the 'Aspect Industrial Estate'. The development site comprises of the eastern portion of 826-882 Mamre Road, Kemps Creek (formally known as Lot 105 in DP 1305965), which was recently created following the subdivision of the broader 'Aspect Industrial Estate' into 4 lots (being 3 contiguous 'industrial type' lots, and a lot containing roads and the alignment of a future / identified 'Collector Industrial' road).

The specific development site is identified by the 'Concept Proposal Plan' of SSD-10448 as 'Warehouse 6' and 'Warehouse 7', which is currently vacant of any permanent structures. The development site contains little vegetation, following earthworks and site benching being undertaken pursuant to SSD-10448. Access to the development site is provided from a signalised intersection with Mamre Road and associated roads within the 'Aspect Industrial Estate', which have recently been construction in accordance with SSD-10448.

The specific site is located immediately to the east of a single occupancy warehouse development (known as 'Warehouse 9') comprising of 66,350 sqm of floor space, which was recently completed in accordance with State Significant Development Consent No. 46516461, and also to the south of an industrial development (known as 'Warehouse 3') comprising of 21,535 sqm of floor space, which was recently completed in accordance with SSD-10448, and of an approved a single occupancy warehouse development (known as 'Warehouse 2') comprising of 24,295 sqm of floor space, which is under construction in accordance with State Significant Development Consent No. 58257960.

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

Proposal

The subject Development Application relates to the construction, fit out and use of two (2) warehouse buildings (a single occupancy warehouse type building and a 2 occupancy warehouse type building), the construction, fit out and use of a building containing a cafe and a site maintenance office, and associated works including earthworks, retaining walls and fencing.

Specific details of the overall proposal, are as follows:

'Warehouse 6A' and 'Warehouse 6B'

- Construction of a warehouse type building, comprising two (2) occupancies each with warehouse areas of approximately 4,212 sqm, each serviced by loading docks and associated office areas approximately 500 sqm in area.
- An awning (15m deep) covering the loading dock areas.
- Car parking areas comprising of a total of 70 spaces (36 spaces for 'Warehouse 6A' and 34 spaces for 'Warehouse 6B'), which includes 2 accessible spaces.
- Associated works, including minor earthworks, landscaping and fencing.
- Fit out, including racking within the warehouse areas.
- Four (4) freestanding combined business identification and directional signs, 2 which are 2.1m (high) x 800mm (wide) and 2 which are 3.3m (high) x 1.5m (wide).
- Two (2) business identification type fascia signs (on the eastern / front elevation) approximately 3m (high) x 11m (wide).
- Use of 'Warehouse 6A' for the warehousing and distribution of finished goods, on a 24/7 basis, with up to 40 staff at any single time.
- Use of 'Warehouse 6B' for the warehousing and distribution of finished goods, on a 24/7 basis, with up to 38

staff at any single time.

'Warehouse 7'

- Construction of a single occupancy warehouse type building, with warehouse area of approximately 12,258 sqm, serviced by loading docks and associated office areas approximately 750 sqm and 100 sqm in area.
- An awning (15m deep) covering the loading dock area.
- Car parking area comprising of 62 spaces, including an accessible space.
- Associated works, including minor earthworks, landscaping and fencing.
- Fit out, including racking within the warehouse area.
- Two (2) freestanding combined business identification and directional signs, a 2.1m (high) x 800mm (wide) sign and a 3.3m (high) x 1.5m (wide) sign.
- Two (2) business identification type fascia signs approximately 3m (high) x 11m (wide).
- Use of the premises, for the warehousing and distribution of finished goods, on a 24/7 basis, with up to 69 staff at any single time.

Cafe and a Site Maintenance Office

- Construction of a building with approximately 112 sqm of floor space, comprising of two (2) occupancies (a cafe with approximately 78 sqm of floor space, an office with approximately 23 sqm of floor space, toilets and shared bin room).
- Car parking area comprising of 62 spaces, including an accessible space.
- External bin storage enclosure (approximately 2.5m wide x 2m deep).
- Associated works, including minor earthworks, pedestrian pathways / access, fencing and landscaping.
- Fit out of the cafe.
- A freestanding combined business identification and directional sign, 2.1m (high) x 800mm (wide).
- Use of the cafe between 5am and 5pm, seven (7) days a week, with for up to 42 patrons and up to 6 staff at any single time.
- Use of the site maintenance office, for managing property maintenance activities of the broader site (the 'Aspect Industrial Estate') between 6am and 6pm, Mondays to Fridays, with up to 2 staff at any single time.
- Servicing of the cafe and a site maintenance office is to be undertaken by up to an 8.8m long medium rigid vehicle, outside of cafe operating hours.

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**

Pursuant to Section 1.7 of the *Environmental Planning and Assessment Act 1979*, the provisions of Part 7 of the *Biodiversity Conservation Act 2016*, must be considered.

The clearing of vegetation and bulk earthworks over the broader site, including the land specifically related to the subject proposal, was approved under SSD-10448. The land specifically related to the subject proposal is devoid of any noteworthy vegetation, following earthworks and site benching being undertaken (pursuant to SSD-10448). Accordingly the proposal will not result in any biodiversity impacts beyond those considered in relation to SSD-10488 and is therefore satisfactory in this regard.

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

The application was accompanied by a Bushfire Assessment Report (which was prepared by a 'BPAD' / qualified Bushfire Risk Assessment Consultant), outlining that subject to the entire site being maintained as an 'Inner Protection Area', that the proposal will comply with *Planning for Bushfire Protection 2019*.

Accordingly, a condition has been included within the recommended conditions, requiring the site being maintained as an 'Inner Protection Area', and it is therefore considered that the proposal satisfies the associated provisions of *Planning for Bushfire Protection 2019*.

- **Section 4.15 - Evaluation**

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

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

While the subject site is located within the 'Greater Sydney Region' (as identified by the 'Housing and Productivity Contribution Regions Map'), pursuant to Clause 4 of the *Environmental Planning & Assessment (Housing and Productivity Contribution) Order 2024*, such does not apply to the Western Sydney Aerotropolis Special Contributions Area, to which the determination under former Section 7.23 of the *Environmental Planning & Assessment Act 1979*, continues to apply until 1 July 2026.

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

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

Accordingly, in accordance with the *Environmental Planning & Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Direction 2022*, a condition is to be imposed requiring the Developer to obtain, written evidence from the Department of Planning, Housing & Industry, 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.

Notwithstanding this, it is noted that pursuant to Section 7 of the *Environmental Planning & Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Determination 2022*, the development may be exempt from the Special Infrastructure Contribution, due to a Planning Agreement made between the Minister for Planning and the Developer (Mirvac Industrial Developments P/L), which applies to the site.

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The site is located within the 'Hawkesbury - Nepean Catchment' and therefore pursuant to Section 6.1 of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 6 (Water Catchments) applies to such land.

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

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

The site is located within the 'Strategic Conservation Planning Area' and therefore pursuant to Section 13.1, Chapter 13 (Strategic Conservation Planning) applies to such land. However, as the site is not identified as being 'Avoided Land', within a 'Strategic Conservation Area' or as 'Certified Urban Capable Land', no further assessment is required pursuant to Chapter 13.

State Environmental Planning Policy (Industry and Employment) 2021

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

The site is zoned 'IN1 – General Industrial' pursuant to *State Environmental Planning Policy (Industry and Employment) 2021*. The proposed development is defined as 'warehouses or distribution centres' and a 'restaurant or cafe' (being a type of 'food and drink premises'). 'Warehouses or distribution centres' and 'food and drink premises' are permitted with consent in the 'IN1 – General Industrial' zone.

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

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

It is considered that the proposal is consistent with the following objectives, 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.*

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

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

Assessment against Section 2.17 (Requirement for Development Control Plans)

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

Assessment against Section 2.19 (Ecologically Sustainable Development)

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

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

Assessment against Section 2.20 (Building Height)

The positioning and design of the proposed building is considered to be appropriate when having regard to the topography of the site, while the (maximum) height of approximately 13.7m satisfies the applicable (13.7m) maximum building height, provided by the 'Concept Proposal' of SSD-10448. Furthermore, it is noted that the site is not located adjacent to any residential areas.

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

Assessment against Section 2.24 (Public Utility Infrastructure)

Matters in relation to the provision of public utility infrastructure to the broader site, were considered in the assessment of SSD-10448, which found that adequate arrangements had been made in this regard. The proposal is consistent with the 'Concept Proposal Plan' forming part of SSD-10448.

Notwithstanding this, it is recommended that associated conditions be imposed to ensure that suitable arrangements have been made with public utility infrastructure providers specific to the proposed development, which will provide for compliance with the associated provisions of Section 2.24.

Assessment against Section 2.25 (Development on or in Vicinity of Proposed Transport Infrastructure Routes)

While the broader site has frontage to Mamre Road, which is shown as an 'existing major road' and a 'proposed road' on the Transport and Arterial Road Infrastructure Plan Map, the site of the proposed development is separated from such. Notwithstanding this, the application was referred to the Secretary of the Department of Planning and in response the Department of Planning, Housing and Infrastructure responded by requesting that consultation be made with Transport for NSW.

Consultation has been had with Transport for NSW, in accordance with other provisions and no concerns have been raised in response to such. Accordingly, no further assessment is required in accordance with Section 2.25.

Assessment against Section 2.30 (Design Principles)

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

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

Assessment against Section 2.31 (Preservation of Trees or Vegetation)

The proposal does not involve the removal of any trees.

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

Transport for NSW has provided concurrence to the proposed development pursuant to Section 2.35, subject to the inclusion of specific conditions, which have been included within the recommended conditions.

Assessment against Section 2.36 (Development in Areas Subject to Aircraft Noise)

While the site is located in the vicinity of flight paths for the Western Sydney Airport and is identified as being within an ANEC contour between 20 and 25, the proposed development is of a type that is unlikely to be adversely affected by aircraft noise (and does not relate to a place of public worship, a centre-based child care facility, a TAFE establishment or residential development).

Given that the proposal does not relate to a 'noise sensitive development', the proposal is satisfactory in this regard.

Assessment against Section 2.38 (Development of Land Adjacent to Airport)

The proposed development is not of a type that is likely to attract birds or animals of a kind, and is unlikely to increase hazards to operating an aircraft.

Accordingly, it is considered that the proposal is consistent with the provisions of Section 2.38.

Assessment against Section 2.39 (Water Recycling and Conservation)

The site will be serviced by Sydney Water's Mamre Road Precinct Stormwater Scheme and the application details that the proposed interim on-site rainwater recycling infrastructure (i.e. rainwater tanks) will be decommissioned once the recycled water networks are established for the broader site. The application was referred to Sydney Water for comment, who provided no objection to the proposal, subject to conditions being imposed, which have been included within the recommended conditions.

Accordingly, it is considered that the proposal is consistent with the provisions of Section 2.39.

Assessment against Section 2.40 (Earthworks)

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

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

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

Assessment against Section 2.41 (Development on Flood Prone Land)

The application was accompanied by a comprehensive Flood Impact Risk Assessment which demonstrates that the proposal is compatible with associated flood hazards and flood behaviour. Consideration of such, including specialist assessment of the proposal by Council's Senior Engineer - Major Developments, has found that the proposal will not adversely affect flood behaviour, will not detrimentally affect drainage flow distributions or velocities, will provide safe occupation of the site, will not detrimentally affect the floodplain environment, will not result in unsustainable social or economic costs as a consequence of flooding, and is compatible with the flood conveyance and hazard.

Accordingly, it is considered that the proposal is consistent with the provisions of Section 2.41.

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

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

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

Pursuant to Section 3.4 of *State Environmental Planning Policy (Industry and Employment) 2021*, Chapter 3 (Advertising and Signage) of such, applies to the proposed signage.

Each of the proposed signs are considered to be 'business identification signs', and therefore in accordance with Section 3.6, consideration is to be given to relevant 'Assessment Criteria' outlined within Chapter 3. The following provides responses to the 'Assessment Criteria' specified in Schedule 5:

- The proposed signage is compatible with the desired character of the area and with the associated building, while providing effective identification of each respective occupancy.
- The proposed signs do not detract from any special areas.
- The proposed signage does not obstruct any views or vistas, and does not protrude above the respective buildings.
- The proposed signage is consistent with the existing and future desired streetscape, the setting / landscape attributes of the area, and does not protrude above the respective buildings.
- The proposed signage is compatible with the characteristics of the site and the respective buildings, and provide effective communication / way-finding.
- No associated devices are proposed as part of the signage.
- The proposed signage is of a type and is located, to not compromise the safety of adjacent public spaces.

Given the aforementioned matters, subject to the inclusion of a condition requiring any associated lighting complying with associated Australian Standards and to not compromise the amenity of other premises, it is considered that the proposal is consistent with the provisions of Section 3.6.

State Environmental Planning Policy (Planning Systems) 2021

The estimated cost of the proposed development is \$49,127,771, accordingly (as such is more than \$30 million and relates to 'general development') pursuant to Section 2.19 and Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*, the proposal is declared to be 'Regionally Significant Development'. Therefore pursuant to Section 4.5 (b) of the *Environmental Planning & Assessment Act 1979*, the Sydney Western City Planning Panel is the 'Consent Authority'.

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

While the subject site is not identified on the 'Land Application Map' for the Western Sydney Aerotropolis, it is noted that pursuant to Section 4.3 of *State Environmental Planning Policy (Precincts - Western Parkland City) 2021*, Section 4.13, Part 4.3 and Section 4.27 applies to land that surrounds the 'Western Sydney Aerotropolis'.

The following outlines assessment of the proposal in accordance with the relevant applicable provisions of Chapter 4 (Western Sydney Aerotropolis) of *State Environmental Planning Policy (Precincts - Western Parkland City) 2021*.

Consideration of Section 4.17 (Aircraft Noise)

The site is identified by the Noise Exposure Contour Map, as being within an ANEC contour between 20 and 25. Given that the proposal does not relate to a 'noise sensitive development', the proposal is satisfactory in this regard.

Consideration of Section 4.19 (Wildlife Hazards)

While the site is located within the '13km Wildlife Buffer Zone' area, the proposal does not relate to 'relevant development' and accordingly no further assessment is required in this regard.

Consideration of Section 4.22 (Airspace operations)

While the site is located within the 'Obstacle Limitation Surface' area, the proposal does not penetrate the identified prescribed air space and accordingly no further assessment is required in this regard.

Accordingly the proposal is considered to satisfy the provisions of Chapter 4 (Western Sydney Aerotropolis) of *State Environmental Planning Policy (Precincts - Western Parkland City) 2021*.

State Environmental Planning Policy (Resilience and Hazards) 2021

The application details that the quantity of any dangerous goods to be stored will be kept below the threshold quantities established by the *Hazardous and Offensive Development Application Guidelines*. It is therefore recommended that a condition be imposed confirming such. Given this, no further consideration needs to be given to the requirements of Chapter 3 (Hazardous and Offensive Development) of *State Environmental Planning Policy (Resilience and Hazards) 2021*.

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

Contamination issues for the broader site have previously been considered in the assessment of State Significant Development Application No. 10448. A Remediation Action Plan provided in relation to SSD-1044, indicates an 'area of concern' within the specific development site, to be remediated through the excavation of impacted soils and subsequent disposal of materials. Noting the absence of a 'Notice of Completion' and a Validation Report, a condition is to be imposed requiring the provision of a Validation Report certifying that the development site is suitable for the subject uses.

Accordingly, subject to the recommended conditions being imposed, it is considered that the proposal is satisfactory having regard to the provisions of Chapter 4 (Remediation of Land) of *State Environmental Planning Policy (Resilience and Hazards) 2021*.

State Environmental Planning Policy (Sustainable Buildings) 2022

The application has been accompanied by an Ecologically Sustainable Development Report, which outlines construction waste minimisation measures, energy efficiency measures and water efficiency measures. It is recommended that a condition be imposed requiring the measures contained within the report being implemented. Furthermore, it is noted that the overall development incorporates rooftop solar photovoltaic panel systems on both warehouse buildings, energy efficient lighting systems and smart metering. Therefore it is considered that the overall development is satisfactory having regard to energy efficiency, water efficiency and greenhouse gas emission matters.

Furthermore, the application has been accompanied by an Embodied Emissions Materials Form, quantifying embodied emissions associated with the construction of the proposed buildings.

Accordingly, it is considered that the proposal is consistent with the provisions of Section 3.2.

State Environmental Planning Policy (Transport and Infrastructure) 2021

While the broader site has frontage to 'Mamre Road', which listed as a 'classified road', the proposed development is provided vehicular access from a 'Collector Industrial Road' and a 'Local Industrial Road'. Given this and the overall nature of the development, the proposal will not adversely affected the operation of the classified road. Accordingly it is considered that the proposal is consistent with the provisions of Section 2.119 (2) (a) & (b).

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

Given that the proposed development involves the construction of a 'warehouse or distribution centre', which comprises of 8,000 sqm (or more) of gross floor area, Section 2.122 (being for 'Traffic Generating Development') applies to such. Accordingly, pursuant to Section 2.122 (4) (a), written notice of the application was given to Transport for NSW. Comments provided by Transport for NSW raised no concerns with the proposal, subject to the inclusion of specific conditions, which have been included within the recommended conditions.

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

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

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

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

Mamre Road Precinct DCP 2021

The subject site is located within the Mamre Road Precinct and accordingly consideration is to be given the provisions of the *Mamre Road Precinct Development Control Plan 2021*. The following key matters ar

noted in relation to the proposal:

Part 2.1 Mamre Road Precinct Structure Plan

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

Part 2.2 Biodiversity

State Significant Development Consent No. 10448, provided for bulk earthworks and benching of the broader site, including the land specifically related to the subject proposal. The land specifically related to the subject proposal is devoid of any noteworthy vegetation, as a result of works being undertaken pursuant to SSD-10448. Accordingly the proposal will not result in any biodiversity impacts beyond those considered in relation to SSD-10448 and is therefore satisfactory in this regard.

Part 2.4 Integrated Water Cycle Management

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

Furthermore, it is recommended that a condition be imposed to ensure that the rainwater tanks provide adequate non-potable water reuse (such as for toilet flushing and irrigation purposes), until connection is available to Sydney Water's Regional Stormwater Scheme.

Part 2.5 Flood Prone Land

The application was accompanied by a comprehensive Flood Impact Risk Assessment which demonstrates that the proposal is compatible with associated flood hazards and flood behaviour. Consideration of such, including specialist assessment of the proposal by Council's Senior Engineer - Major Developments, has found that the overall development is unlikely to be satisfactory from a flooding perspective.

Part 2.8 Bushfire Prone Land

The application was accompanied by a Bushfire Assessment Report (which was prepared by a 'BPAD' / qualified Bushfire Risk Assessment Consultant), outlining that subject to the entire site being maintained as an 'Inner Protection Area', that the proposal will comply with *Planning for Bushfire Protection 2019*.

Accordingly, a condition has been included within the recommended conditions, requiring the site being maintained as an 'Inner Protection Area', and it is therefore considered that the proposal satisfies the associated provisions of *Planning for Bushfire Protection 2019*.

Part 2.9 Salinity

A Geotechnical Investigation (which included a salinity analysis) has been provided in support of the proposal, which concludes that the risk of acid sulphate soils across the broader 'Aspect Industrial Estate' is considered low within this site. Accordingly, having regard to such and the existing attributes of the development site, which has already been subject to bulk earthworks and benching, pursuant to State Significant Development Consent No. 10448.

Therefore, subject to the inclusion of a condition requiring construction techniques being implemented which prevent structural damage to the development as a result of salinity and that all works are to conform with the *Western Sydney Salinity Code of Practice*, it is considered that the proposal is consistent with the associated salinity requirements of Part 2.9.

Part 2.10 Contaminated Land

Contamination issues for the broader site have previously been considered in the assessment of State Significant Development Application No. 10448. A Remediation Action Plan provided in relation to SSD-1044, indicates an 'area of concern' within the specific development site, to be remediated through the excavation of impacted soils and subsequent disposal of materials. Noting the absence of a 'Notice of Completion' and a Validation Report, a condition is to be imposed requiring the provision of a Validation Report certifying that the development site is suitable for the subject uses.

Furthermore, it is noted that referral of the application to Council's Senior Environmental Health Officer, raised no objection to the proposal, subject to conditions being imposed.

Part 2.11 Aviation Safeguarding

An Aeronautical Impact Assessment Report was provided in support of SSD-10448, which outlined that buildings to a height of approximately 63m AHD and temporary construction crane activity to a height of approximately 100m AHD, would not result in any impact upon operations of the Western Sydney Airport (including flight safety). The proposed development is consistent with such and it is noted that the proposal is consistent with the 'Concept Proposal Plan' forming part of State Significant Development Consent No 10448.

The proposed development is not of a nature which is likely to attract wildlife and does not penetrate the identified prescribed air space (i.e. the Obstacle Limitation Surface). Furthermore, it is recommended that a condition be imposed associated with minimising light spill.

Accordingly, subject to the inclusion of the recommended conditions, it is considered that the proposal is consistent with the associated requirements of Part 2.11.

Part 2.14 Utilities Services

The required infrastructure and service needs for the broader site, were considered in the assessment of SSD-10448. Furthermore, it is recommended that associated conditions be imposed in relation to such, which shall provide for compliance with the associated requirements of Part 2.14.

Part 2.15 Transport Investigation Areas

While the broader site has frontage to Mamre Road, the proposal relates to land which is setback a substantial distance from such. Notwithstanding this, it is noted that the development of the broader site pursuant to SSD-10448, has delivered a new signalised intersection with Mamre Road frontage and includes the preservation of the associated 'SP2 - Infrastructure' zoned ('Classified Road') land, for the Mamre Road widening corridor. Furthermore, written notice of the subject application was given to Transport for NSW, who raised no concerns with the proposal. Accordingly, no further assessment is required in accordance with the provisions of Part 2.15.

Part 3.2 Views and Visual Impacts

While (mature) tree planting is not provided along the top of retaining walls in the vicinity of the driveway accessing the cafe and site maintenance office, and the north eastern corner of 'Warehouse 7', it is acknowledged that a Landscape Character and Visual Impact Assessment was provided in support of SSD-10448. The proposal is consistent with the 'Concept Proposal Plan' forming part of State Significant Development Consent No. 10448, and therefore given this, as well as the nature and setting of the site, it is considered that such is acceptable when having regard to the associated requirements of Part 3.2.

Part 3.4 Transport Network

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

While the eastern edge of broader site is identified as containing part of the dedicated 'Freight Corridor' (which is to accommodate 'Automated Guided Vehicles', as part of the broader dedicated freight network the proposal relates to land which is setback a substantial distance from such. Notwithstanding this, it is noted that the development of the broader site pursuant to SSD-10448, provides for the preservation of the 'Freight Corridor'. Accordingly, no further assessment is required in accordance with the provisions of Part 3.4.2.

Assessment of the proposal, including by Council's Senior Traffic Engineer and Council's Senior Engineer - Major Developments, found the proposal to be satisfactory from traffic, public transport and pedestrian access perspectives, and final comments provided by Transport for NSW raised no concerns. Accordingly it is considered that the proposal is consistent with the relevant requirements of Part 3.4.

Part 3.5 Council Engineering Works and Construction Standards

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

Part 4.1 Site Analysis

The application was supported by detailed site analysis and it is considered that such is acceptable when having regard to the associated requirements of Part 4.1.

Part 4.2.1 Building Height

The buildings have a maximum height of 13.7m, and have been designed and sited to minimise overshadowing on the public domain, in accordance with the associated requirement of Part 4.2.1.

Part 4.2.2 Setbacks

The proposal provides minimum front building setbacks of 12m for both the combined cafe and site maintenance office building and 'Warehouse 7' to the 'Collector Road' along the northern site frontage (referred to as 'Access Road 1'), a minimum front building setback of approximately 21m for 'Warehouse 6' to the 'Collector Road' along the eastern site frontage (referred to as 'Access Road 3'), and a minimum building setback of 5m for both the combined cafe and site maintenance office building and 'Warehouse 7' to the 'Local Estate Road' (being a 'Secondary Road Frontage') along the western site frontage (referred to as 'Access Road 4'), which satisfy the associated building setback requirements of Part 4.2.2 (C1).

The proposal provides a minimum front building setback of approximately 25m for 'Warehouse 6' to the 'Collector Road' along the eastern site frontage (referred to as 'Access Road 3'), which satisfies the associated building setback requirements of Part 4.2.2 (C1).

The heavy vehicle manoeuvring area associated with the 'Warehouse 6' loading dock area is located forward of the building and extends to 6m from the 'Collector Road' along the eastern site frontage (referred to as 'Access Road 3'). Given that such is setback behind a 6m deep landscaped area, the configuration is consistent with that provided for by Part 4.2.2 (C3).

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

Part 4.2.3 Landscaping

The application has been accompanied by a detailed Landscape Plan (prepared by a Landscape Architectural firm), which involves the delivery of a comprehensive landscaping scheme which shall deliver a tree canopy coverage of approximately 8% across the development site of 'Warehouse 6' and a tree canopy coverage of approximately 11% across the development site of 'Warehouse 7'. Notwithstanding

this, it is noted that the 'Concept Proposal Plan' forming part of State Significant Development Consent N 10448, provides for delivery of 12% canopy cover across the broader 'Aspect Industrial Estate' and the aforementioned rates (of 8% associated with 'Warehouse 6' and 11% associated with 'Warehouse 7') are consistent with that previously established, and therefore the proposal is consistent with the requirements of Part 4.2.3 (C1)

The overall layout provides a minimum 6m deep landscape setbacks to both the 'Collector Road' along the eastern site frontage (referred to as 'Access Road 3') and to the 'Collector Road' along the northern site frontage (referred to as 'Access Road 1'), and 3.75m to the 'Local Estate Road' along the western site frontage (referred to as 'Access Road 4'). It is noted however, that a small portion of the car parking area associated with 'Warehouse 7' extends within 6m of the site frontage alongside the roundabout / intersection between 'Access Road 1' and 'Access Road 3' (in the north eastern portion of the development site), which does not satisfy the respective 6m minimum landscaped area requirement of Part 4.2.3 (C3). Notwithstanding this, given that substantial portions of the overall site frontage are provided with landscaped setback areas which are greater than 6m deep and the relative minor nature of the non-compliance, it is considered that such is acceptable in this instance.

The application has been accompanied by 'Permeable Paving Plans' indicating the provision of 'permeable paving' across portions of car parking areas. The incorporation of such would satisfy the minimum 15% 'perviousness' requirement of Part 4.2.3 (C4), for both the development site of 'Warehouse 6' and the development site of 'Warehouse 7'. Notwithstanding this, it is noted that the supporting Civil Drawings do not incorporate such details and accordingly it is recommended that associated conditions be imposed, confirming the use of permeable paving, turf cells or gravel cells, and the provision of updated Civil Plans prior to the issuing of a Construction Certificate.

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

Part 4.2.4 Communal Areas

The three (3) warehouse tenancies are serviced by communal areas for employees, which are located immediately adjacent the respective office areas. Each of the communal areas will receive a minimum of 6 hours direct sunlight during mid winter, are well landscaped (with soft / natural elements, paving and direct access to amenities), are relatively flat, do not contain impediments, and include seating.

Part 4.2.5 Building Design

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

While each of the buildings are positioned to be generally parallel with all street frontages and to provide for sufficient deep soil tree plantings, the car parking area servicing 'Warehouse 7' is located within the front setback area (to 'Access Road 3'), which is inconsistent with the requirements of Part 4.2.5 (C5). Given the irregular shape of the 'Warehouse 7' development site as identified by the 'Concept Proposal Plan' of SSI 10448, that the positioning of the proposed building and associated car parking area is consistent with such, that the site has three (3) street frontage and that ample landscape screening is to be provided in this area, it is considered that the proposed arrangement does not compromise a visually cohesive urban environment and is acceptable in this instance.

Furthermore, the overall layout provides for good passive surveillance of the street frontages, positive

streetscape character, incorporates articulation and a variety of external materials and finishes, and high quality landscaping (which shall soften the appearance of the buildings and car parking areas). Furthermore, the scale and character of the proposed development is in keeping with existing (and approved) adjacent development.

Part 4.2.6 Design of Storage Areas

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

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

The application details that the quantities of dangerous goods to be stored will be kept below the threshold quantities established by the Hazardous and Offensive Development Application Guidelines. Accordingly, it is recommended that a condition be imposed confirming such, which shall provide for compliance with the associated requirements of Part 4.2.7.

Part 4.2.8 Signage and Estate Entrance Walls

The proposed business identification type signage provides a suitable means of identifying each of the respective premises from the public domain. The signage is considered to be suitable given the scale of the respective building and to be consistent with the relevant provisions of Part 4.2.8.

Part 4.2.9 Safety and Surveillance

While the proposal has been supported by a Crime Risk Assessment Report, the application has been accompanied by an assessment against Crime Prevention Through Environmental Design (CPTED) principles. Given the overall layout, which includes the provision of access gates at all warehouse driveway access points and fencing to secure all warehouse car parking and loading dock areas, it is considered that the proposal is acceptable when having regard to the associated requirements of Part 4.2.9.

Part 4.2.10 Lighting

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

Part 4.2.11 Fencing

All proposed fencing is open type and black in colour, and is positioned behind landscaping to blend in with the surrounding landscape. Accordingly, it is considered that the proposal is consistent with the provisions of Part 4.2.11.

Part 4.3 Amenity

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

The proposed uses are not of a nature that are likely to provide any air quality issues. While the majority of dust generating activities from a construction perspective have already been completed as part of the bulk earthworks and benching of the broader site, pursuant to State Significant Development Consent No. 10448. Notwithstanding this, it is recommended that conditions be imposed requiring any emissions satisfying the Protection of the Environment Operations Act 1997 (and associated regulations) and the preparation of a Construction Air Quality Management Plan, which shall provide for compliance with the

associated requirements of Part 4.3.

Part 4.4 Earthworks and Retaining Walls

The proposed finished levels align with the existing adjacent ground levels, will not require the importing of fill to the site and provide for suitable level building pads. Accordingly, it is considered that the proposal is consistent with the associated provisions of Part 4.4.

Furthermore, the application has been accompanied by an Erosion and Sediment Control Plan, and it is recommended that associated conditions be imposed, which shall provide for compliance with the associated provisions of Part 4.4.2.

Part 4.5 Waste Minimisation and Management

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

It is noted that the primary bin storage area for the cafe and site maintenance office, comprises of a freestanding enclosure within the associated car parking area. As minimal details have been provided in relation to such (i.e. no details of the height and materials / finishes), it is recommended that a condition be imposed to ensure that the bin enclosure is of suitable design.

Part 4.6 Access and Parking

'Warehouses or distribution centres' are required to provide 1 car parking space per 300 sqm of gross floor area or 1 space per 4 employees (whichever is the greater), and 'ancillary office space' is required to provide 1 car parking space per 40 sqm of gross floor area. While a 'cafe' is required to provide 1 car parking space per 10 sqm.

Both 'Warehouse 6A' and 'Warehouse 6B' comprise of approximately 4,212 sqm of 'warehouse' area and approximately 500 sqm of associated office space. The proposed use of 'Warehouse 6A' involves up to 4 staff at any single time and the proposed use of 'Warehouse 6B' involves up to 38 staff at any single time. This equates to a requirement for a minimum of 27 car parking spaces for both warehouses. The proposal involves the provision of 36 spaces for 'Warehouse 6A' and 34 spaces for 'Warehouse 6B', which satisfies such.

'Warehouse 7' comprises of approximately 12,258 sqm of 'warehouse' area and approximately 850 sqm of associated office space. The proposed use of the premises, involves up to 69 staff at any single time. This equates to a requirement for a minimum of 62 car parking spaces. The proposal involves the provision of 62 spaces for 'Warehouse 7', which satisfies such.

The 'cafe' comprises of approximately 78 sqm of floor area and the site maintenance office approximately 23 sqm of floor area. This equates to a requirement for a minimum of 9 car parking spaces. The proposal involves the provision of 20 spaces for the cafe and the site maintenance office, which satisfies such.

Assessment of the proposal, including by Council's Senior Traffic Engineer, Council's Senior Engineer - Major Developments and Transport for NSW, did not identify any noteworthy design issues with the overall development, 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.

Western Sydney Aerotropolis Plan

The site is located within the 'Mamre Road Precinct' being one of the initial precincts identified by the *Western Sydney Aerotropolis Plan*. The 'Mamre Road Precinct', was rezoned in June 2020 under the former *State Environmental Planning Policy (Western Sydney Employment Area) 2009*, to deliver a warehousing and industrial hub, while also preserving land for environmental conservation and open space.

Assessment of the subject application has found that the proposal is consistent with the themes and objectives identified in the *Western Sydney Aerotropolis Plan*, as it will create employment opportunities during both construction and operational phases, and support high value job growth in the industrial sector. The proposed development will deliver job opportunities close to homes, aligning with the '30 minute city' concept.

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

State Voluntary Planning Agreement No. 2021-49, relating to the overall / broader site, was executed on 8 April 2022, made towards the provision of regional transport infrastructure and services. The Planning Agreement gives effect to the development of the site for warehousing and distribution centres, and a cafe, in accordance with State Significant Development Consent No.10448, and assessment of the proposal has not identified any conflicts with such.

While a Planning Agreement between Council and the Landowner, was executed on 11 March 2024, relating to the development of the broader site (for development up to a 'Net Developable Area' of 479,686 sqm), involving various works (including the completion of roads, the dedication of land and the payment of a monetary contribution to Council. Assessment of the proposal has not identified any conflicts with such and it is noted that the proposed development is consistent with the 'breakdown of developable area' provided within the Planning Agreement. It is recommended that a condition be imposed, to ensure that any relevant obligations in the aforementioned Planning Agreement, associated with the proposed development, are satisfied in accordance with such.

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

Part 3 Division 1 - Making Development Applications

The application was made in accordance with the requirements of Part 3 Division 1.

Section 35 - Additional requirements for Development Applications in Certain Areas of Sydney

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

Section 35BA - Embodied Emissions for Non-Residential Development under Sustainable Buildings SEPP

The application has been accompanied by a 'NABERS Embodied Emissions Materials Form' disclosing emissions attributable to the development and describing the associated low emission construction technologies.

Section 66 - Contributions Plans for Certain Areas in Sydney

The *Mamre Road Precinct Development Contributions Plan 2022* applies to land to which the application relates and therefore the subject application can be determined for the purpose of Section 66 of the *Environmental Planning & Assessment Regulation 2021*.

Section 69 - Compliance with Building Code of Australia

It is recommended that a condition be imposed requiring all work to be carried out in accordance with the requirements of the *Building Code of Australia*.

Section 70 - Erection of Signs

It is recommended that a condition be imposed requiring the erection of a sign in a prominent position on the site for the duration of works, providing relevant details (including of the principal certifier and the principal contractor).

Section 73 - Maximum Capacity Signage

It is recommended that a condition be imposed requiring a sign being displayed in a prominent position in the cafe, stating that a maximum number of 50 patrons and a maximum of 6 staff are permitted on site at any single time.

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

The proposed development is consistent with the 'Concept Proposal Plan' of SSD-10448 (as modified), including the associated development controls, stormwater management strategy and noise limits.

It is considered that the overall proposal does not provide any adverse unreasonable environmental, social or economic impacts, noting that the broader area is undergoing significant transformation following the rezoning of land within the Mamre Road Precinct (associated with the Western Sydney Employment Area), subject to the recommended conditions being imposed.

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

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

Section 4.15(1)(d) Any Submissions

Community Consultation

The application was advertised (through a notice in a local newspaper) and notified to adjacent property owners from 13 May 2024 until 26 May 2024, in accordance with the *Penrith City Council Community Engagement Strategy & Community Participation Plan*. No submissions were received as a result of this process.

Referrals

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

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

Section 4.15(1)(e)The public interest

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

- Section 4.24 Status of Concept Development Applications and Consents**

Pursuant to Section 4.24 of the *Environmental Planning & Assessment Act 1979*, Development Applications further to any 'Concept Development Consent' in force for the development of the site, cannot be inconsistent with the established 'Concept Proposal'.

The proposed development is consistent with the 'Concept Proposal' of SSD-10448 (as modified), including the development controls, stormwater management strategy and noise limits.

Section 94 - Developer Contributions Plans

While the site is located within the area subject to the *Mamre Road Precinct Development Contributions Plan 2022*, a Planning Agreement between Council and the Landowner (executed on 11 March 2024), relates to the development of the broader site up to a 'Net Developable Area' of 479,686 sqm. The Planning Agreement provides benefits (including the completion of roads, the dedication of land and the payment of a monetary contribution to Council) in lieu of the payment of Development Contributions, pursuant to the Mamre Road Precinct Development Contributions Plan 2022.

Assessment of the proposal has not identified any conflicts with such and it is noted that the proposed development is consistent with the 'breakdown of developable area' provided within the Planning Agreement. Notwithstanding this, it is recommended that a condition be imposed requiring any relevant obligations in the aforementioned Planning Agreement, associated with the proposed development, being satisfied in accordance with such.

Conclusion

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

1. The site is located within the 'Mamre Road Precinct' of the Western Sydney Employment Area' and is zoned 'IN1 – General Industrial' pursuant to State *Environmental Planning Policy (Industry and Employment) 2021*. 'Warehouses or distribution centres' and 'food and drink premises' are permitted with consent in the 'IN1 – General Industrial' zone.
2. The proposed development is considered to meet the objectives for the 'IN1 – General Industrial' zone.
3. The proposed development is consistent with the 'Concept Proposal Plan' for the 'Aspect Industrial Estate', including the associated State Significant Development Consent No. 10448.
4. The proposal satisfactorily responds to key planning considerations, such as in relation to urban design, scale of development, sustainability, water recycling and conservation, traffic impacts, heavy vehicle manoeuvring and car parking, landscaping outcomes, visual impacts, and potential amenity impacts.
5. It is considered that the proposal will not provide for any significant adverse or unreasonable impacts on the broader area.

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

Recommendation

That Development Application No. DA24/0264, be approved subject to the following recommended conditions.

CONDITIONS

General

- 1 The development must be implemented substantially in accordance the following stamped approved plans and supporting information received with the application, except as varied by any conditions within this consent:
 - Lot 6 Site & Warehouse Floor Plan, Drawing No. AIE.06.DA601, Issue G, prepared by SBA Architects, dated 20 February 2025
 - Lot 6 Signage Plan, Drawing No. AIE.06.DA602, Issue B, prepared by SBA Architects, dated 24 January 2025
 - Lot 6 Permeable Paving Plan, Drawing No. AIE.06.DA603, Issue A, prepared by SBA Architects, dated 4 February 2025
 - Lot 6 Roof Plan, Drawing No. AIE.06.DA605, Issue F, prepared by SBA Architects, dated 12 February 2025
 - Office 6A Plans, Drawing No. AIE.06.DA610, Issue D, prepared by SBA Architects, dated 12 February 2025
 - Office 6B Plans, Drawing No. AIE.06.DA620, Issue D, prepared by SBA Architects, dated 12 February 2025
 - Lot 6 Overall Elevations, Drawing No. AIE.06.DA630, Issue D, prepared by SBA Architects, dated 14 February 2025
 - Office 6A Elevations, Drawing No. AIE.06.DA635, Issue D, prepared by SBA Architects, dated 12 February 2025
 - Office 6B Elevations, Drawing No. AIE.06.DA640, Issue D, prepared by SBA Architects, dated 12 February 2025
 - Lot 6 Overall Sections, Drawing No. AIE.06.DA650, Issue C, prepared by SBA Architects, dated 7 February 2025
 - Lot 7 Site & Warehouse Floor Plan, Drawing No. AIE.07.DA701, Issue J, prepared by SBA Architects, dated 20 February 2025
 - Lot 7 Signage Plan, Drawing No. AIE.07.DA702, Issue C, prepared by SBA Architects, dated 14 February 2025
 - Lot 7 Permeable Paving Plan, Drawing No. AIE.07.DA703, Issue A, prepared by SBA Architects, dated 4 February 2025
 - Lot 7 Roof Plan, Drawing No. AIE.07.DA705, Issue F, prepared by SBA Architects, dated 7 February 2025
 - Lot 7 Office Plans, Drawing No. AIE.07.DA710, Issue E, prepared by SBA Architects, dated 7 February 2025
 - Cafe Plans, Drawing No. AIE.07.DA720, Issue D, prepared by SBA Architects, dated 7 February 2025
 - Cafe Elevation & Section, Drawing No. AIE.07.DA721, Issue D, prepared by SBA Architects, dated 24 January 2025
 - Lot 7 Overall Elevations, Drawing No. AIE.07.DA730, Issue E, prepared by SBA Architects, dated 12 February 2025
 - Lot 7 Office Elevations, Drawing No. AIE.07.DA735, Issue E, prepared by SBA Architects, dated 7 February 2025
 - Lot 7 Overall Sections, Drawing No. AIE.07.DA750, Issue C, prepared by SBA Architects, dated 7 February 2025
 - Lot 7 Retaining Wall Details, Drawing No. AIE.07.SK703, Issue A, prepared by SBA Architects, dated 12 February 2025
 - General Arrangement Plan, Drawing No. CV-AIE.B06.DA.2603-AT&L, Issue D, prepared by AT&L, dated 11 October 2024
 - Typical Site Sections, Drawing No. CV-AIE.B06.DA.2610-AT&L, Issue D, prepared by AT&L, dated 10

February 2025

- Bulk Earthworks Cut & Fill Plan, Drawing No. CV-AIE.B06.DA.2660-AT&L, Issue E, prepared by AT&L, dated 10 February 2025
- General Arrangement Plan, Drawing No. CV-AIE.B07.DA.2703-AT&L, Issue E, prepared by AT&L, dated 24 January 2025
- Typical Site Sections Sheet 1, Drawing No. CV-AIE.B07.DA.2710-AT&L, Issue D, prepared by AT&L, dated 10 February 2025
- Typical Site Sections Sheet 2, Drawing No. CV-AIE.B07.DA.2711-AT&L, Issue G, prepared by AT&L, dated 13 February 2025
- Site Elevations, Drawing No. CV-AIE.B07.DA.2712-AT&L, Issue D, prepared by AT&L, dated 13 February 2025
- Bulk Earthworks Cut & Fill Plan, Drawing No. CV-AIE.B07.DA.2760-AT&L, Issue F, prepared by AT&L, dated 13 February 2025
- Cover Sheet Lot 6, Drawing No. LS-AIE-B06.DA.000, Issue D, 14 October 2024
- Plant Schedule Lot 6, Drawing No. LS-AIE-B06.DA.001, Issue C, 14 October 2024
- Landscape Plan Lot 6, Drawing No. LS-AIE-B06.DA.101, Issue D, 14 October 2024
- Landscape Plan Lot 6, Drawing No. LS-AIE-B06.DA.102, Issue D, 14 October 2024
- Landscape Plan Lot 6, Drawing No. LS-AIE-B06.DA.103, Issue D, 14 October 2024
- Landscape Plan Lot 6, Drawing No. LS-AIE-B06.DA.104, Issue D, 14 October 2024
- Plant Schedule Lot 6, Drawing No. LS-AIE-B07.DA.001, Issue D, 18 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.101, Issue E, 18 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.102, Issue E, 18 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.103, Issue E, 18 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.104, Issue D, 14 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.105, Issue E, 18 October 2024
- Landscape Plan Lot 7, Drawing No. LS-AIE-B07.DA.106, Issue E, 18 October 2024
- Landscape Details, Drawing No. LS-AIE-B07.DA.501, Issue B, 12 February 2024
- Geotechnical Investigations, Reference PSM3739-004L, prepared by PSM, dated 13 October 2020
- Waste Management Plan, prepared by MRA Consulting Group, dated 28 February 2023
- Ecologically Sustainable Development Report, Reference 301351424, prepared by Stantec, 28 February 2024
- Noise Impact Assessment, Reference No. 610.19127-R13-v1.1, prepared by SLR, dated 4 October 2024
- Operational Management Plan - Warehouse 6A, prepared by Urbis, receipted by Council on 4 March 2025
- Operational Management Plan - Warehouse 6B, prepared by Urbis, receipted by Council on 4 March 2025
- Operational Management Plan - Warehouse 7, prepared by Urbis, receipted by Council on 4 March 2025
- Operational Management Plan - Cafe and a Site Maintenance Office, prepared by Urbis, receipted by Council on 4 March 2025
- Green Travel Plan, Reference No. P2455r02v2, prepared by Ason Group, dated 2 April 2024

- 2 Prior to the issue of a Construction Certificate, a Validation Report, prepared by an appropriately qualified person, is to be submitted to and approved by the Senior Environmental Health Officer, Penrith City Council.

The Validation Report is to be prepared with consideration of the relevant NSW Environment Protection Authority contaminated land guidelines and is to confirm that the entire development site is suitable for the subject uses.

{Note: An appropriately qualified person is defined as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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.”}

- 3 Details are to be provided to the Principal Certifier for consideration and approval, prior to the issue of a Construction Certificate, demonstrating that the external bin storage enclosure adjacent the cafe and site maintenance office building, is:
 - Approximately 2.5m wide x 2m deep x 2.5m high;
 - Comprises of metal slatted walls and doors;
 - Includes a colourbond roof; and
 - finishes that are similar and / or in keeping with those of the cafe and site maintenance office building.
- 4 Any associated Conditions and the mitigation measures established in accordance with State Significant Development Consent No. SSD-10448 (as modified), which are relevant to the development, are to be complied with at all times.
- 5 A Construction Certificate shall be obtained prior to commencement of any building works.
- 6 With respect to development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor, the applicant must at their own expense:-
 - (a) protect and support any building, structure or work on adjoining land from possible damage from the excavation,
 - (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

Note: These requirements do not apply if:-

 - (a) the person having the benefit of the development consent owns the adjoining land, or
 - (b) the owner of the adjoining land gives written consent to the condition not applying.
- 7 Prior to the issue of the relevant Occupation Certificate, the following is to be implemented and be operational, to the satisfaction of the Principal Certifying Authority:
 - The measures outlined within the Ecologically Sustainable Development Report, prepared by Stantec (Revision No. 1), dated 28 February 2024, submitted in support of the Development Application.
 - 100kW (or greater) solar power systems are to be provided on the rooftop of both warehouse buildings.

- 8 The development shall not be used or occupied until the relevant Occupation Certificate has been issued.
- 9 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.
- 10 (a) Lighting throughout both warehouse buildings is to comprise of energy efficient LED light fittings.
- (b) Lighting is to be designed and directed so as to not cause light spill onto adjoining sites, the public road network, 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.
- 11 The approval of fencing and gates is limited to that shown on the approved Architectural type 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.
- 12 The approval of signage is limited to the business identification type signs, as shown on the approved Signage Plans. The signage:
- is not to flash, move or display electronic images;
 - is to be maintained in a condition as to not become unsightly; and
 - contents must relate to the existing and the approved use of the respective premises.

13 (a) The use of the premises (including the use of 'Warehouse 6A', 'Warehouse 6B', 'Warehouse 7', the cafe and the site maintenance office) shall comply with the following requirements:

- (i) The approved Operational Management Plans.
- (ii) All materials and goods associated with the uses, shall be stored within the building and not under any awning.
- (iii) No retail sales or sales to the general public, shall be made from the premises.
- (iv) All waste, recycling and bins, are to be contained within designated Waste Management Area(s).
- (v) The premises shall be maintained in a clean and tidy state at all times.
- (vi) Site operations must not result in any vehicles queuing on the public road network.
- (vii) All vehicular entries and exits to the site shall be made in a forward direction and all vehicles awaiting loading or unloading shall be parked on site and not on adjacent or nearby public roads.
- (viii) Any activity carried out shall not give rise to air pollution (including odour), offensive noise or pollution of land and / or water as defined by the Protection of the Environment Operations Act 1997.
- (ix) The approved Waste Management Plan
- (x) The approved Ecologically Sustainable Development Report
- (xi) The approved Noise Impact Assessment
- (xii) The approved Green Travel Plan

(b) The use of 'Warehouse 6A', 'Warehouse 6B' & 'Warehouse 7' shall also comply with the following requirements:

- (i) The approved hours of operation for the use of 'Warehouse 6A', 'Warehouse 6B' & 'Warehouse 7', are 24 hours per day, 7 days a week.
- (ii) Vehicles accessing the site shall be limited in a maximum size of a 26m long B- Double.
- (iii) A contract is to be held at all times with a licensed garbage and / or recycling contractor, for the collection of both rubbish and recycling.

(c) The use of the cafe shall also comply with the following requirements:

- (i) The approved hours of operation for the use of the cafe, are 5am and 5pm, seven (7) days a week.
- (ii) A maximum of 6 staff are to be on-site at any single time.
- (iii) Seating in relation to the premises is to be limited to provide for an overall maximum of 42 patrons.
- (iv) Servicing of the cafe is to be undertaken via the adjacent car parking area, by vehicles up to a size of a (8.8m long) medium rigid vehicle, outside of cafe operating hours.
- (v) Any deliveries to the cafe during cafe operating hours, are to be undertaken via the adjacent car parking area, using vehicles up to a size of a B99 vehicle (with a maximum length of 5.2m and width of 1.94m).
- (vi) A contract is to be held at all times with a licensed garbage and / or recycling contractor, for the collection of both rubbish and recycling.
- (vii) The requirements of the NSW Food Act, 2003, NSW Food Regulation, 2015 and the Australian and New Zealand Food Standards Code, are to be met at all times.
- (viii) A Food Safety Supervisor, with a current Food Safety Supervisor Certificate recognised by the NSW Food Authority, must be appointed at all times

(d) The use of the site maintenance office shall also comply with the following requirements:

- (i) The use of the site maintenance office is to be specifically limited to the maintenance of the broader site.
- (ii) The approved hours of operation for the use of the site maintenance office, are 6am and 6pm, Mondays to Fridays.
- (iii) A maximum of 2 staff are to be on-site at any single time.
- (iv) Servicing of the site maintenance office is to be undertaken via the adjacent car parking area, by vehicles up to a size of a (8.8m long) medium rigid vehicle, outside of cafe operating hours.

- 14 The maximum capacity of the cafe is 48 persons, including staff. In accordance with the requirements of the Environmental Planning and Assessment Regulation 2000, a sign must be displayed in a prominent position in the building, stating the maximum number of persons on site in relation to the cafe is 48 persons.
- 15 (a) The Applicant must ensure that noise generated by the operation of the development does not exceed the following operational noise limits:

Location	Day L _{Aeq} (15 minute)	Evening L _{Aeq} (15 minute)	Night L _{Aeq} (15 minute)
Residential receivers near Medinah Avenue (Luddenham), Mount Vernon Road (Mont Vernon) and Kerrs Road (Mont Vernon)	39 dB(A)	34 dB(A)	29 dB(A)
BAPS Temple – Outdoor Use Area (Except Car Parking Area)	36 dB(A) (when in use)		

To this effect, the Applicant must:

- Ensure compliance with the approved Noise Impact Assessment
- Ensure the cumulative noise emission of fixed external mechanical plant for each warehouse building do not exceed 90 dB(A) and do not exhibit tonal characteristic or strong low frequency content.

Note: Noise generated by the development is to be measured in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the NSW Noise Policy for Industry (EPA, 2017) (as may be updated or replaced from time to time).

Refer to the plan in Figure 1 of the Noise Impact Assessment for the location of residential sensitive receivers.

(b) Within 3 months of the commencement of operations of each warehouse, a Noise Verification Report is to be submitted to the satisfaction of the Senior Environmental Health Officer, Penrith City Council.

Each Noise Verification Report must be prepared by a suitably qualified and experienced acoustic consultant and include:

- an analysis of compliance with the above operational noise limits.
- an outline of mitigation and management measures to reduce any exceedances of the above operational noise limits (excluding measures to be implemented at the receivers); and
- a description of contingency measures in the event management actions are not effective in reducing noise levels to an acceptable level.

Heritage/Archaeological relics

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

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

Environmental Matters

17 Any construction related works involving 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.

18 Construction works must be undertaken in accordance with the approved Noise Impact Assessment and the construction noise management provisions the Interim Construction Noise Guideline (as may be updated or replaced from time to time). All feasible and reasonable noise mitigation measures must be implemented, and any activities that could exceed the construction noise management levels must be identified and managed, in accordance with the management and mitigation measures referenced within the approved Noise Impact Assessment.

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

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

21 No fill is to be imported to the site until a certificate demonstrating that the fill material is suitable, has been submitted to considered and approved by the Principal Certifier. This certificate may be in the form of a validation certificate, waste classification, or appropriate resource recovery order/exemption. A copy of a report forming the basis for the validation is also to be provided. The certification shall:

- be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
- clearly state the legal property description of the fill material source site and the total amount of fill tested,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, 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

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

{Note: An appropriately qualified person is defined as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, 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."}.

- 22 All construction related 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.
- 23 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.

- 24 All chemicals, fuels and oils are to be stored and used on-site in appropriately bunded areas in accordance with the requirements of all relevant Australian Standards, and/or EPA's Storing and Handling of Liquids: Environmental Protection – Participants Manual (Department of Environment and Climate Change, 2007).
- 25 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.
- 26 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.
- 27 The quantities of dangerous goods stored and handled at the site must be below the threshold quantities listed in the Department of Planning's 'Hazardous and Offensive Development Application Guidelines – Applying SEPP 33' at all times.
- 28 Loading and unloading of oils, chemicals and any other liquid materials must only take place in a bunded area.
- 29 Wastewater from the washing of bins and / or waste storage areas is not to enter the stormwater system.

BCA Issues

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

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

Health Matters and OSSM installations

- 31 The construction, fit out and finishes of the cafe must comply with Food Safety Standard 3.2.3 of the Australian and New Zealand Food Standards Code, and AS4674-2004 Design, Construction and Fitout of Food Premises.
- 32 The cafe is to be serviced by a grease arrestor, which is to be:
- installed in accordance with Sydney Water's requirements; and
 - not located within in any kitchen, food preparation or food storage type area.
- 33 (a) A satisfactory inspection from an authorised officer of Council's Environmental Health Department is required prior to the issue of an Occupation Certificate for the cafe.

Please contact the Council's Environmental Health Department to organise an appointment at least 72 hours prior to the requested inspection time.

(b) Prior to the issuing of the commencement of cafe trading, the Occupier must register their food business with Penrith City Council by completing Council's "Registration of Premises - Food" Form. The occupier of the premises must notify Council within 7 days of any change of details.

Utility Services

- 34 A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Our assessment will determine the availability of water and wastewater services, which may require extensions, adjustments, or connections to our mains. Make an early application for the certificate, as there may be assets to be built and this can take some time. A Section 73 Compliance Certificate must be obtained before an Occupation or Subdivision Certificate will be issued.

Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to the Sydney Water website or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

- 35 The plans must be approved by Sydney Water prior to demolition, excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Any amendments to plans will require re-approval. Please go to 'Sydney Water Tap in' to apply.

Sydney Water recommends developers apply for a Building Plan Approval early as to reduce unnecessary delays to further referrals or development timescales.

- 36 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.

- 37 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

- 38 Details are to be provided to the Principal Certifier for consideration and approval, prior to the issue of a Construction Certificate, demonstrating that:
- Construction techniques are to be implemented which will prevent structural damage to the development as a result of salinity; and
 - All works are to conform with the Western Sydney Salinity Code of Practice.

A qualified practising Geotechnical Engineer must confirm that works have been completed, to prevent structural damage as a result of salinity and in accordance with the Western Sydney Salinity Code of Practice, prior to the issuing of the relevant Occupation Certificate.

- 39 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.

- 40 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 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 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 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.

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

Engineering

- 42 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.
- 43 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

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

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

- 44 Lodgement of relevant Section 138 Roads Act applications, including payment of application and Council fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road).

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

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

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

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

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

Note:

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

- 45 Prior to work activity commencing in relation to the stormwater works within the Council road reserve, such as the conversion of kerb inlet grate to V-grate, the Principal Certifier shall ensure that an associated Section 138 Roads Act application, including payment of application and inspection fees, has been approved by Penrith City Council (being the Roads Authority under the Roads Act) for the undertaking of such works (i.e. the stormwater works within the Council road reserve, including the conversion of kerb inlet grate to V-grate).

The Section 138 Roads Act application in relation to the stormwater works within the Council road reserve, is to be accompanied by engineering plans, prepared in accordance with this Development Consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines, and best engineering practice.

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.
- 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.

- 46 Final Engineering Plans and supporting calculations for the stormwater management systems (prepared by a suitably qualified person) shall accompany the application for a Construction Certificate, which are generally in accordance with the Civil Works Drawings and the Civil Infrastructure Reports, which accompanied the Development Application.

The final Engineering Plans and Civil drawings, are to incorporate the use of permeable paving, turf cells or gravel cells, in the locations as shown on the approved 'Lot 6 Permeable Paving Plan' and the approved 'Lot 7 Permeable Paving Plan'. Alternate locations within the car parking area and / or pedestrian type areas can be considered, subject to such achieving a permeable paved area which is consistent with the approved Permeable Paving Plans.

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

Prior to the issue of any relevant Construction Certificate the Principal Certifier 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).

- 47 Until connection is available to Sydney Water's Regional Stormwater Scheme rainwater tanks are to provide at least 80% of non-potable water reuse (such as for toilet flushing and irrigation purposes) for each specific building.

- 48 a. All vehicle parking spaces, parking aisles and driveways / circulation area, are to be designed and constructed in accordance with AS2890.1, AS2890.2 and AS2890.6.
- b. Prior to the issue of a Construction Certificate, the Principal Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas, are provided in accordance with the approved plans, AS2890.1, AS2890.2 and AS2890.6.
- c. The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage.
- d. Car parking spaces shall be provided in accordance with the approved plans.
- e. Wheel stops shall be provided along the front of all car parking spaces, in accordance with AS 2890.1 - Parking Facilities.
- f. Each space shall be permanently line marked at all times.
- g. All parking spaces, loading zones, parking aisles and manoeuvring areas are to be kept clear of stored materials, products and waste materials, such that these areas remain unobstructed and allow for the safe movement of vehicles.
- h. Staff, company and visitor vehicles, are to be parked in the spaces provided on the subject premises and not on adjacent footpaths or landscaping areas.
- 49 Bicycle parking is to be provided as shown on the approved plans and in accordance with the provisions of AS2890.3 Bicycle Parking Facilities.
- 50 Prior to the issue of the relevant Occupation Certificate, the Principal Certifier is to ensure that permeable paving, turf cells or gravel cells, has been used throughout the car parking areas, and associated driveway, access and manoeuvring areas, in accordance with the Final Engineering Plans and achieves a permeable paved area which is consistent with the approved Permeable Paving Plans.
- 51 Prior to the issue of any construction certificate or any preparatory, demolition or excavation works for Warehouses 6 and 7, whichever is the earlier, the Applicant shall prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with TfNSW.
- 52 Prior to the commencement of any works, a Construction Traffic Management Plan is to be approved by Penrith City Council's Asset Management Department. The Construction Traffic Management Plan is to be prepared by a suitably qualified consultant, with appropriate training and certification from Transport for NSW. The Construction Traffic Management Plan shall include details of any required road closures, work zones, loading zones and the like.

It is noted that the Construction Traffic Management Plan 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.

- 53 Prior to the issue of a Roads Act approval, a Performance Bond is to be lodged with Penrith City Council, for provision of stormwater works within the Council Road Reserve, including the conversion of kerb inlet grate to V-grate.

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

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

- 54 Prior to the issue of any construction certificate or any preparatory, demolition or excavation works for Warehouses 6 and 7 the Applicant shall have the signalised intersection of Mamre Road / Access Road 1 completed and operational. The temporary construction vehicle access on Mamre Road shall be removed upon completion and operation of the Mamre Road / Access Road intersection to the satisfaction of TfNSW and Council.
- 55 (a) Prior to the issue of a Construction Certificate, a final Erosion and Sediment Control Plan, and associated drawings, is to be approved by the Principal Certifier, which:
- Incorporates the erosion and sediment commitments outlined in the Concept Erosion and Sediment Control Plan (prepared by AT&L Project No. 18-596, dated 13 March 2024), submitted in support of the Development Application;
 - Includes sediment basins with an automated system of flocculant dosing; and
 - Demonstrates compliance with the construction stage requirements outlined in Part 2.4 of the of the Mamre Road Precinct Development Control Plan 2021 and the associated requirements of the Technical guidance for achieving Wianamatta–South Creek stormwater management targets (DPE 2022).
- (b) The Applicant must ensure the delivery and operation of all erosion and sediment controls in accordance with the final Erosion and Sediment Control Plan, and such is supervised and certified by a Certified Professional in Erosion and Sediment Control (CPESC).
- (c) Erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.
- (d) Monthly audits are to be completed by a Certified Professional in Erosion and Sediment Control (CPESC) and kept on record for the duration of the works and an additional 12 months following the completion of works.
- 56 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.
- 57 Prior to the issue of the relevant Occupation Certificate, the Principal Certifier shall ensure that all works associated with any associated Section 138 Roads Act approval, has been inspected and signed off by Penrith City Council.
- 58 Prior to the issue of the relevant Occupation Certificate, the Principal Certifying Authority shall ensure that the stormwater management system (including water sensitive urban design measures):
- Have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent.
 - Have met the design intent with regard to any construction variations to the approved design.
 - Any remedial works required to been undertaken have been satisfactorily completed.
- Details of the approved and constructed system/s shall be provided as part of the works-as-executed drawings.

59 Prior to the Issue of an Occupation Certificate, the Principal Certifier must ensure that the precinct bioretention system provided as part of the stormwater management measures for the overall Aspect Industrial Estate, is operational and embellished with final layers of filter media and planted with vegetation (as per the design).

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

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

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

62 Prior to the issue of the relevant Occupation Certificate, vehicle entry and exit signage that is clearly visible from the public roads shall be placed within the development site, in accordance with the approved 'Signage Plans'.

63 Prior to the issue of the relevant Occupation Certificate, a Maintenance Bond is to be lodged with Penrith City Council for the new stormwater connection and new V-grate within the Council Road Reserve (Pemul Place).

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

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

64 Stormwater management systems shall 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. Any necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s.

Landscaping

65 All landscape works are to be completed in accordance with the stamped approved Landscape Plans.

Landscaping shall be maintained:

- in accordance with the approved plans;
- to achieve its mature dimensions and form, unless otherwise specified and approved (for example hedging);
- 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.

66 Certain tree species placed in proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Section 46 of the *Sydney Water Act 1994*, specifies what might occur when there is interference or damage to our assets caused by trees.

For any trees proposed or planted that may cause destruction of, damage to or interference with our work and are in breach of the *Sydney Water Act 1994*, Sydney Water may issue an order to remove that tree or directly remove it and seek recovery for all loss and associated compensation for the removal.

For guidance on types of trees that can cause damage or interference with our assets see Sydney Water webpage Wastewater blockages. For guidance on how to plant trees near our assets, see Diagram 5 – Planting Trees within *Sydney Water's Technical guidelines – Building over and adjacent to pipe assets*.

67 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.

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

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

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

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

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

Development Contributions

- 70 The Applicant is reminded of obligations of the Planning Agreement between Council and the Landowner, that was executed on 11 March 2024. Any relevant obligations in the Voluntary Planning Agreement associated with the proposed development, are to be satisfied in accordance with such.
- 71 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. Please refer enquiries to SIContributions@planning.nsw.gov.au.

Certification

- 72 Prior to the commencement of any earthworks or construction works on site, the Applicant 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 1979* 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 6.6 of the *Environmental Planning and Assessment Act 1979*.

Information to accompany the Notice of Commencement

At least two (2) days before any earthworks or construction works commence on site, the Applicant shall submit a “Notice of Commencement” to Council in accordance with Section 6.6 of the *Environmental Planning and Assessment Act 1979*.