

SWCPP Ref. No.:	PPSSWC-418
DA No.:	DA24/0330
PROPOSED DEVELOPMENT:	Construction and Use of a Warehouse and Distribution Facility and Works, Including Subdivision of One into Two Community Title Lots, Weighbridge, Truck Wash, Refuelling Area, Site Preparation, Car Parking, Landscaping, Temporary Pump Out Sewage and Business Identification Signage
PROPERTY ADDRESS:	211 - 227 Luddenham Road, ORCHARD HILLS NSW 2748
PROPERTY DESCRIPTION:	Lot 1 DP 1293805,
CLASS OF BUILDING:	N/A
ASSESSING OFFICER	Jake Bentley
APPLICANT:	Hb & B Property Pty Ltd
DATE RECEIVED:	23 April 2024
REPORT BY:	Jake Bentley, Senior Development Assessment Planner, Penrith City Council
RECOMMENDATIONS:	Approve

Assessment Report

Executive Summary

The Development Application is located within the Luddenham Road Industrial Business Park estate which was created via an endorsed Planning Proposal to Penrith Local Environmental Plan 2010 (PLEP) amending the zoning from rural to industrial. The LEP amendments occurred on 20 May 2024 and was accompanied by a now executed Voluntary Planning Agreement and new Chapter E18 to the Penrith Development Control Plan 2014 (DCP). The rezoned land forming the broader industrial estate was determined to be suitable for industrial development with a capacity to provide a total of 100 industrial lots, with a mix of larger and smaller allotments to provide diversity of industrial uses.

The Voluntary Planning Agreement identifies the external road works required to service the increased traffic demand from the estate. The road and intersection upgrade works required to Patons Lane and Luddenham Road are to be completed by the applicant prior to the issue of the first Occupation Certificate. As such, compliance with the Planning Agreement obligations will ensure road infrastructure works will service operational vehicles.

The estate is located across nine existing lots. Currently the applicant/developer owns two of those lots, although those two lots also represent the majority of the area of the estate, and cover the location of the required internal estate collector road. The remaining lots are identified as the 'eastern' and 'southern additional lands' in which the Planning Agreement includes indicative provision for future road access.

The two lots owned by the applicant benefits from a recent Development Consent DA24/0294, which was approved by the Sydney Western City Planning Panel on 05 May 2025. This development consent is referred to as the 'bulk earthworks consent' as it endorsed; the super lot creation via Community Title Subdivision; Collector Road construction; estate wide stormwater management infrastructure (via bio-retention and storage basins); flood storage basins; bulk earthworks establishing pads; protection and enhancement of conservation areas; utility services; and landscaping.

The estate is not serviced for sewage, therefore, the developer seeks to manage wastewater via a private sewage treatment plant. Development Application DA24/0654 proposes a private sewage treatment plant that will eventually be able to service the entire estate. The application is being assessed by Council staff and is supported in-principle although yet to be presented to the regional Panel for consideration and determination.

The private sewage treatment system seeks to collect wastewater from future lots via pipework within private land including a sewer main, rising main and recycled water main. The pipework is approved in Development Consent DA24/0294 (bulk earthworks consent) and is situated within private land consolidated at front boundaries, to minimise impacts on future landscaping. The pipework will collect wastewater from future operations, be treated at the proposed on-site sewage treatment plant and the treated effluent byproduct will be piped back to the future warehouse lots/operations via the recycled water main, for the purposes of toilet flushing, cooling towers and irrigation.

The Community Title Subdivision (approved under the bulk earthworks consent) includes the creation of the relevant easements for sewage drainage over the pipework, to and from the lot that will accommodate the private sewage treatment plant. In this regard, the Community Title Subdivision, and conditions of Development Consent DA24/0294, have addressed the situation where subdivision has been endorsed prior to a shared private sewage management system application being finalised. Development Consent DA24/0294 requires the created lots to be burdened by a restriction on the use of the land which restricts 'wastewater generating development' until appropriate sewage services are available.

Furthermore, DA24/0294 endorsed a cumulative Noise Impact Assessment which nominated noise criteria for future individual lots (based upon assumptions) to ensure the estate can achieve acceptable noise criteria cumulatively. DA24/0294 requires restrictions on the use of the land, to be imposed at Subdivision Certificate stage for the approved super lots, which requires adherence to the cumulative noise impact assessment and updates to that assessment should any lots change from those shown in the indicative concept for the estate that informed the acoustic assessment. In this regard, there are mechanisms in place to ensure noise is appropriately managed.

The subject Development Application is accompanied by a Noise Impact Assessment which has been reviewed by Council's Environmental Officer and has been deemed satisfactory and responds to the cumulative assessment endorsed via DA24/0294, subject to conditions.

The proposed development is for a new warehouse for a specific tenant. The use includes 92 loading docks and is accompanied by a Dock Usage Plan within the Traffic Impact Assessment. The Dock Usage Plan includes information relating to frequency of use. Council's Traffic Engineering Team have reviewed the proposal and are satisfied with the traffic generation being accommodated via the road network (to be upgraded). It is noted that any future uses of the premises will need to adhere to the Noise Impact Assessment conducted for the application via conditions of consent. Should any future uses seek to intensify the operation an updated Noise Impact Assessment would be required which would need to address the individual lot contribution specified within the cumulative assessment. These provisions are required under the positive covenant provisions specified in Development Consent DA24/0294. This is of relevance noting the specialised use of the premises requiring multiple loading docks which may not always be occupied considering the tenants operational requirements.

The proposal includes landscaping within the front setback which is identified as a recycled wastewater irrigation zone. It is noted that the sewage treatment plant proposal is under assessment and proposes to dispose of recycled wastewater in this location. As such, Development Application DA24/0654 includes documentation specifying that the soil type and plant species in these locations is suitable for receiving the quality of wastewater via irrigation. This is reflected in the approved landscaping details which specifies a separate requirement for the recycled wastewater irrigation areas. In this regard, the proposal has considered implications on landscaping as a result of the proposed on-site wastewater system.

The proposed subdivision of one (preceding) Community Title Lot into two Community Title lots relates to the further subdivision of Lot 4, which is a super-lot endorsed in Development Consent DA24/0294. The proposal is consistent with the easements endorsed in Development Consent DA24/0294 in relation to wastewater servicing.

The private sewage treatment plant and system, proposed in Development Application DA24/0654, will serve as the ultimate wastewater management servicing infrastructure for the proposal. Considering those works are subject to a separate development application yet to be determined, the applicant has proposed a temporary pump out system for sewage related to the current proposed warehouse, an interim measure. The temporary pump-out system is acceptable as an interim measure, and is specific only to the proposed warehouse.

The proposed temporary pump out will involve a sewer holding well located underneath the light vehicle car park with collection occurring via the heavy vehicle entry driveway. The application has confirmed via swept paths that there will not be a conflict with the collection truck and operational heavy vehicle movements. Furthermore, a recommended condition of consent will ensure the holding well is structurally certified noting its location under a car park.

The planning assessment for Development Application DA24/0654, for the sewage system, is nearing completion and is likely to be supported in principle. Of note is that the applicant has now provided correspondence from IPART (the Independent Pricing and Regulatory Tribunal) that they will be the licensing and regulatory authority for the future estate-wide sewage treatment system. On this basis, Council is satisfied that the proposed temporary pump out system will in fact be temporary and the warehouse will be able to connect to a future estate-wide system at the relevant time. A condition is included in the recommendation to require the temporary pump-out system to be decommissioned and the warehouse to be connected to the estate-wide system within six months of the estate-wide system being operational.

The proposal has been referred to Council's Building Surveying, Development Engineering, Environmental Management, Waterways and Traffic Engineering Teams to which no objections subject to condition responses have been received.

Furthermore, Sydney Water, Water NSW, TransGrid, Transport for New South Wales, Department of Planning Housing and Infrastructure, and Sydney Metro have not objected to the proposal.

The Development Application was notified in accordance with Council's Community Participation Plan 2022 which involved written notice of the application provided to surrounding property owners with an exhibition date of 20 May 2024 to 02 June 2024. The Development Application was also advertised within the local newspaper the Western Weekender issue date 16 May 2024. No submissions were received.

The Development Application is recommended to be approved by the Sydney Western City Planning Panel subject to the attached recommended conditions of consent which have been agreed to by the applicant.

Site & Surrounds

The site is located within the Alspec Industrial Business Park (AIBP) which is shown below, outlined in blue.



Image of Entire Estate, NearMaps

The AIBP is the subject of a finalised Planning Proposal dated 20 May 2024 to amend Penrith Local Environmental Plan 2010 (PLEP), rezoning the land from rural to general industrial purposes. The Planning Proposal was accompanied by a now executed Voluntary Planning Agreement (VPA) and endorsed a site specific Chapter within Penrith Development Control Plan 2014 (DCP), E18 Luddenham Road Industrial Business Park which provides contemporary development controls for the precinct. An image of the PLEP Land Zoning Map is provided below for reference with the AIBP outlined in red.



Penrith LEP Land Zoning Map

The applicant has a concept plan for the entire AIBP site, as shown in the image below.

the property (at the intersection of Patons Lane and future collector road intersection) accommodates the Orchard Hills Switching Station being an Endeavour Energy asset. The perimeter of the switching station is burdened by an easement for batters.

The land identified as TIN in the above Lot Zoning Map extract is identified as the Western Sydney Freight Line under State Environmental Planning Policy (Transport and Infrastructure) 2021. The land within the site, west of the industrial zoning, has retained the previous rural zoning noting this land is earmarked for the indicative Outer Sydney Orbital.

The site is identified under the Cumberland Plain Conservation Plan Viewer as being certified urban capable within the E4 zone, avoided land surrounding the watercourse to the north, avoided land and strategic conservation land within the southern C2 Environmental Conservation zone and certified major transport corridor within the land to the west (noting the indicative Outer Sydney Orbital location).

Luddenham Road is identified as a local heritage item under PLEP 2010 considering the historic alignment of the road has significance. The AIBP is not serviced by reticulated sewage therefore, the site will rely upon on-site sewage management until Sydney Water assets become available.

The site is relatively cleared of structures and occupied by scattered trees and dams.

DA24/0294 was lodged simultaneously with the subject Development Application and was approved by the Sydney Western City Planning Panel on 05 May 2025. DA24/0294 is the first development consent for the subject site and includes much of the facilitating site preparatory works, including subdivision to create super-lots (via Community Title), bulk earthworks, utility service connections, internal collector road construction, land remediation works, stormwater management works and flood mitigation works.

A Development Application (DA24/0654) has been lodged with, and is under assessment by, Council for a private sewage management treatment plant which will treat effluent wastewater generated by the developments via reuse for cooling towers, toilet flushing and irrigation. Development Application DA24/0654 will be determined by the Sydney Western City Planning Panel as the private infrastructure proposal exceeds \$5 million in estimated development cost.

The developer has informed Council staff that a future Development Application will be lodged for the Patons Lane upgrade and intersection works with both Luddenham Road and the internal collector road. In addition, a State Significant Development Application has been lodged with the Department of Planning, Housing and Infrastructure for a new warehouse building and use (Alspeg Manufacturing Facility) on the site.

A further local development application (DA25/0318) has been lodged to Council for a new left-in/left-out intersection with Luddenham Road, at the southern end of the subject site. In addition, the developer has lodged a local Development Application with Council for a new speculative warehouse located north of the warehouse proposed under this DA.

The area within the AIBP site, the subject of the current proposed warehouse is identified below.

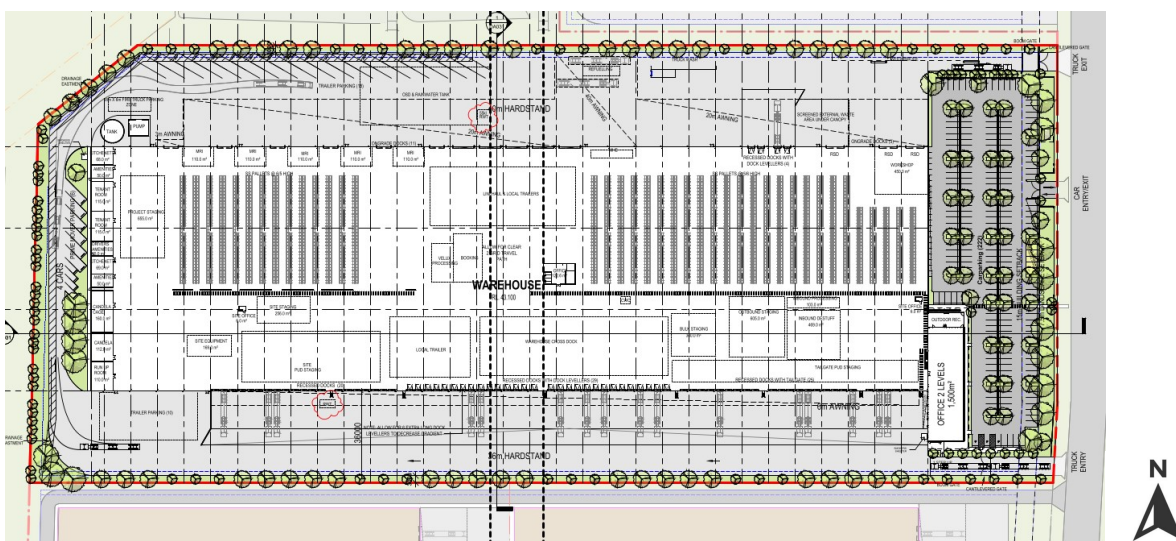


(Snippet of Site Plan)

Proposal

The proposal seeks to further subdivide Lot 4 (which has been approved as part of Development Consent DA24/0294) into two lots (Community Title Subdivision) essentially creating the boundaries for the proposed warehouse development. The proposal seeks to construct the COPE Sensitive Freight warehouse and distribution center with the following components:

- the operation of the premises will be for storage and distribution of bulky products and sensitive/fragile products with a 24/7 operation and approximately 134 employees,
- dangerous goods will be stored in the form of 40,000L of helium within stored MRI machines and 55,000L of diesel,
- provision of a 222 space car park forward of the warehouse building,
- southern truck entry with hardstand access surrounding the warehouse perimeter for clock wise vehicle movement and truck exit to the north,
- separate in and out entry to the light vehicle car park avoiding conflict with heavy vehicle movements,
- two storey office within south-eastern extent,
- 37,000m² warehouse floor area,
- combination of recessed and on-grade loading docks,
- 6m southern facing awning,
- 3m, 20m and 40m northern facing awnings,
- trailer, prime mover and fire truck parking areas,
- truck refueling area,
- truck wash,
- weighbridge,
- screened external waste storage area,
- 2x smokers shelters located within south-eastern and north-western areas external to warehouse building,
- plant room on ground floor behind office building,
- solar panels atop roof,
- business identification and way-finding signage,
- perimeter fencing,
- combination batter and retaining wall treatment to perimeter of hardstand,
- 3m wide easement along western and northern boundary to capture swale flows from southern upstream properties,
- below ground on-site detention and rainwater tank,
- temporary pump out sewage system with inground sewer holding well located underneath light vehicle car park,
- and
- landscaping embellishment works throughout site.



(Proposed Site Plan)

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Precincts—Western Parkland City) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Resources and Energy) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- State Environmental Planning Policy (Transport and Infrastructure) 2021

Planning Assessment

- **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**

In accordance with this Section and Part 3 of Schedule 2 of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel is the constituted Sydney district planning panel for the City of Penrith.

In accordance with Section 2.15(a) the Sydney Western City Planning Panel is the consent authority under Part 4 of the Environmental Planning and Assessment Act 1979 for regionally significant development.

This report will discuss triggers for regionally significant development under the title "*State Environmental Planning Policy (Planning Systems) 2021*".

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

The site is identified as bushfire prone land therefore, the application is accompanied by a Bushfire Assessment prepared by Peterson Bushfire. The Bushfire Assessment has reviewed the vegetation within 140m surrounding the proposed structure and has identified grassland threats to the north and west. The land surrounding the proposed works to the north-east, east and south will be cleared of any vegetation threats via the approved bulk earthworks application (DA24/0294) which is required to be actioned prior to occupation of the proposal noting DA24/0294 sets up the land for future industrial occupation.

The grassland threats to the north and west are considered accurate noting DA24/0294 includes hydromulching of the western adjoining flood storage basin and associated stormwater irrigation area. The northern adjoining land will be occupied by a bio-retention system and storage basin which will be subject to landscape embellishment works. Beyond the bio-retention system and storage basin the land will be occupied by grassland under the transmission line easement, separating the proposed works from dense vegetation surrounding the watercourse located further north on site.

The Bushfire Assessment has assessed the proposal against the aims and objectives of the document Planning for Bushfire Protection 2019 (PBP) and the specific objectives within the PBP for building Class 5-8 of the National Construction Code. The proposal provides suitable defensible space to the vegetation threats noting the extent of building separation and hardstand to the northern and western boundaries. In this regard, Bushfire Attack Level compliance is not required and reliance upon National Construction Code standards for the building type will be suitable. The extent of hardstand surrounding the building is suitable for operational access and egress for emergency service personnel.

The public road (Collector Road) connecting the site to Patons Lane will be provided via DA24/0294 prior to the occupation of the proposal. Furthermore, the wider precinct road network connection to Luddenham Road will be provided via a separate Development Application. The Development Application will include Patons Lane upgrade works inclusive of intersections with the Collector Road and Luddenham Road. It is noted that these works are required via Planning Agreement obligations and must be completed prior to the issue of the first Occupation Certificate for the precinct development. A condition of consent will ensure adherence to the Planning Agreement provisions. In this regard, the proposal (when operational) will have access to the wider road network.

The Bushfire Assessment recommends landscaping to be compliant with inner protection area standards and compliant hydrant coverage. It is noted that General Terms of Approval issued by the NSW Rural Fire Service under facilitating application DA24/0294 requires the subject lot to be maintained as an inner protection area. Furthermore, annotations on the landscape plan indicate that inner protection area provisions with respect to canopy area have been considered. Sydney Water correspondence indicates that water servicing can be made available to the development and recommended conditions are imposed to ensure water servicing will be available when occupation occurs. In this regard, the recommendations relating to landscaping and hydrant coverage are achievable.

The proposed diesel refueling tank is found to be suitably separated from the warehouse and grassland hazards noting its location on the northern hardstand which adjoins a future industrial development building pad to the north.

The Bushfire Assessment concludes that the adoption of the recommendations as outlined above will ensure compliance with the PBP. In this regard, a recommended condition of consent will be imposed requiring compliance with the Bushfire Assessment.

- **Section 4.15 - Evaluation**

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

- **Section 7.12 - Developer Contributions**

A Voluntary Planning Agreement (VPA) between the developer and Penrith Council applies to the land. Schedule 4 of the VPA specifies that the application of Section 7.12 development contributions are not excluded and therefore, remain applicable.

Penrith Section 7.12 Citywide Development Contributions Plan for Non-Residential Development applies to the subject site and requires a development contribution for non-residential development. The applicable levy rate is 1% of the cost of works where the cost of works exceed \$200,000.

The application has been accompanied by an estimated development cost report. The application contribution is \$522,117.00.

A recommended condition of consent will ensure the Section 7.12 development contribution is paid prior to the issue of a Construction Certificate in accordance with the Section 7.12 Plan.

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

Under Part 7 Infrastructure contributions and finance Subdivision 4 Housing and Productivity Contributions, the NSW Government has enabled a contribution (a housing and productivity contribution, (HPC)) to facilitate regional infrastructure. To determine the application of the contribution the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 and version 2024 have been issued. The

Orders specify the region, class of development, amount, and unit to calculate the applicable contribution.

The Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 commenced on 1 July 2024. However, the Order includes a savings and transitional provision within Schedule 5 determining that the 2023 Order continues to apply to development applications that are made on or after 1 October 2023 but not determined before 1 July 2024. The subject application was lodged after 1 October 2023 and has not been determined before the 1 July 2024. As such, the provisions of the 2023 Order remain applicable.

However, Section 12 of Schedule 5 within the 2024 Order states, the 2024 Order applies where a strategic biodiversity component (SBC) is required for development on biodiversity certified land under the Cumberland Plain Conservation Plan. This provision applies when a development application is made before the 1 July 2024 and not determined before 1 July 2024. The subject development application was made prior to 1 July 2024 and has not been determined before 1 July 2024, as such, the SBC contribution in the 2024 Order is applicable.

The HPC and SBC apply to new gross floor area for commercial development and industrial development. The 2023 Order requires a HPC for commercial development within the Greater Sydney Region of \$30 per square meter and an industrial development in the Greater Sydney Region of \$15 per square meter of new gross floor area. The 2024 Order requires a SBC of the HPC of \$60 per square meter of gross floor area for commercial development and \$30 per square meter of gross floor area for industrial development.

The gross floor area of the proposed new commercial development (office component) equates to 1,500m² and the industrial building equates to 37,000m². It is noted that the rates per square meter are subject to review per quarter. As such, the following calculations have been provided via the NSW Planning Portal reflecting the updated rates:

HPC

Office component

- 1,500m² x \$32.132 = \$48,197.93

Warehouse component

- 37,000m² x \$16.066 = \$594,441.08

Total = \$642,639.

SBC

Office component

- 1,500m² x \$61.244 = \$91,865.88

Warehouse component

- 37,000m² x \$30.622 = \$1,133,012.52

Total = \$1,224,878.40

HPC + SBC Total = \$1,867,517.4

The NSW Government have issued standard condition wording to ensure the conditions are imposed in accordance with the HPC Order. As such, a recommended condition of consent will be imposed requiring payment of the HPC and SBC in accordance with the standard wording. The timing of payment will be prior to the issue of a Construction Certificate in this instance.

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

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 6 Water catchments

Clause 6.6 Water quality and quantity

It is noted that facilitating application DA24/0294 establishes three catchments for the Alspec Industrial Business Park. The proposed COPE warehouse is located within the north-western catchment which will, as part of DA24/0294, store and treat stormwater via a bio-retention basin and storage basin in the north-western corner of the precinct with eventual discharge into the unnamed creek.

It is understood that the Integrated Water Cycle Management and Civil Engineering Report submitted with DA24/0294 specifies that on-site detention will be provided for each individual lot within the western catchment to ensure post development flow rates are reduced to below pre development flow rates. Furthermore, the report states that a combination of rainwater tanks and ocean guard pit baskets will contribute to water quality control.

The subject Development Application has been accompanied by an Integrated Water Cycle Management and Civil Engineering Report which states the below ground on-site detention tank within the northern hard stand is of a size capable of reducing post development flows to their pre developed counterparts. The water quality of the stormwater generated by the proposal will be treated by the downstream infrastructure proposed as part of the bulk earthworks application (bio-retention basin and gross pollutant trap). The proposal includes two rainwater tanks one for the purposes of water reuse for irrigating landscaping and for truck washing purposes.

In light of the above the following points are made:

- the development has considered and adequately addressed neutral or beneficial effects on receiving waterways in comparison to pre and post development scenarios,
- the proposal will not directly discharge stormwater into the unnamed creek. The facilitating works (DA24/0294) incorporate infrastructure to manage flows into the natural waterbody,
- the proposal will capture stormwater via rainwater tanks for reuse purposes on-site including landscape irrigation,
- the proposal incorporates on-site detention to manage stormwater flows into the surrounding infrastructure,
- the proposal will sit atop a pad level proposed via DA24/0294 therefore ground water and water table impacts have been assessed under the facilitating application.

Clause 6.8 Flooding

The facilitating application DA24/0294 sets up the pad level for the proposed warehouse. The levels are proposed to be refined as part of the proposed works to suite the warehouse operation and servicing requirements. The pad levels are established to ensure floor levels are above the 1:100 year flood event therefore ensuring any potential pollutants would not be released in a flood event.

The extent of filling works nearby the flood affected area are proposed via DA24/0294 as such, DA24/0294 will address provisions relevant to natural recession of flood waters.

Chapter 13 Strategic conservation planning

Part 13.5 Development on certified urban capable land

The proposed works are situated on land identified as certified urban capable under the Cumberland Plain Conservation Plan. As such, the provisions under this Part apply. The relevant provisions consist of the following:

- asset protection zones must be located wholly on certified urban capable land, and
- the development must be consistent with the Cumberland Plain Conservation Plan Mitigation Measures Guideline.

As per the Bushfire Assessment an asset protection zone is not required in this instance as a defensible space is being provided. Furthermore, the defensible space is located within the confines of the proposed boundary which is identified as certified urban capable land.

The facilitating application DA24/0294 involves site clearing and works nearby avoided and strategic conservation land. As such, DA24/0294 has demonstrated consistency with the Cumberland Plain Conservation Plan Mitigation Guidelines. It is noted that the proposal involves works on land approved to be cleared via DA24/0294 and is suitably distanced from locations earmarked for conservation purposes. Nonetheless, the proposal has been accompanied by an Ecology Consistency Letter which finds the proposal compliant with the biodiversity certification under the Cumberland Plain Conservation Plan.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 Advertising and signage

Clause 3.6 Granting of consent to signage

The provisions of this clause state development consent to display signage cannot be granted unless the consent authority is satisfied of the following:

- the signage is consistent with the objectives set out in Section 3.1(1)(a), and
- the signage satisfies the assessment criteria specified in Schedule 5.

The proposal includes the following signage:

- 2 wall mounted identification signs (one located on the eastern warehouse building frontage and the other facing west toward the Outer Sydney Orbital corridor). The signs are 12m wide and 3.6m high consisting of the COPE business logo,
- 1 on ground site identification sign adjacent the truck exit on the northern side of the road frontage. The sign is 4m in height and 1.6m in width inclusive of two separate panels identifying the business logo and address.
- the remaining signage consists of way finding signage for the car park, truck exit and entry and pedestrian entrance. These signs are smaller in scale than the identification signs and include the business logo and address as a complimentary feature to the dominate wayfinding purpose. The pedestrian and car parking signage is incorporated into the front fencing whereas the truck exit and entry is standalone.

The signage will be treated with prefinished aluminum composite panels being UV resistant and weather proof. The applicant has specified that none of the signs will be illuminated.

The proposal has been assessed against the Schedule 5 assessment criteria as follows:

1. Character of the area

Considering the proposal represents the first industrial use within the precinct there is no existing character or theme for outdoor advertising. However, the masterplan indicates that majority of road frontages will be consistent with the proposal noting large warehouses behind car parking and landscape setbacks address the collector road. As such, the combination of business identification and way finding signage is likely to be consistent with the future character. It is noted that a site specific chapter within Penrith Development Control Plan 2014 applies to the Alspec Industrial Business Park which includes signage controls. As such, consistency of signage across the estate can be appropriately considered/managed.

2. Special areas

The signage is orientated to the collector road and future Outer Sydney Orbital. The signage does not include illumination and is significantly setback from the riparian corridor to the west. As such, the proposal does not detract from any special areas.

3. Views and vistas

The proposal is limited to within the site, does not project above the building envelope and is integrated with landscaping. As such, the proposal does not compromise important views, does not dominate the skyline or impact views and will not impact the ability of future warehouses to display signage.

4. Streetscape, setting and landscape

The proposed signage does not result in clutter as a combination of identification and way finding signage has been used across a large 185m road frontage. The signage is integrated with proposed landscaping and presents as a suitable articulation feature to both the eastern and western building facades.

5. Site and building

The proposed signage integrates with the built form and proposed landscaping. The signage materials proposed and features of the signage show innovation and high quality finishes.

6. Associated devices and logos with advertisements and advertising structures

As mentioned above, the high quality features and business logo provide a suitable visual presentation.

7. Illumination

No illumination of signage is proposed.

8. Safety

The proposed signage is inclusive of wayfinding therefore no adverse impact on cyclist, drivers or pedestrians are envisioned.

The aims specified within Clause 3.1 (1)(a) include:

- compatibility with the desired amenity and visual character of an area,
- provides effective communication in suitable locations, and

- is of high quality design and finish.

The proposal is consistent with the above aims as described above within the assessment against the Schedule 5 criteria.

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2 State and regional development

In accordance with Clause 2.19 and Schedule 6, the proposal is identified as regionally significant development as the estimated development cost of the development is more than \$30,000,000. The estimated development cost specified in the Quantity Surveyors Estimated Development Cost Report accompanying the application is more than \$30 million.

Therefore, the Sydney Western City Planning Panel is the consent authority for regionally significant development in the City of Penrith. The proposal is identified as regionally significant development under this Policy.

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

Chapter 4 Western Sydney Aerotropolis

Clause 4.19 Wildlife hazards

This clause applies to relevant development (as defined in this clause) where wildlife may present a risk to the operation of the Airport.

The proposal is not defined as relevant development and therefore the provisions of this clause have been adequately considered.

Clause 4.22 Airspace operations

The proposal will not penetrate the prescribed airspace therefore the provisions of this clause have been adequately considered.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 3 Hazardous and Offensive Development

The proposal has been accompanied by a State Environmental Planning Policy (Resilience and Hazards) 2021 Report. The report identifies the proposed warehouse or distribution centre will store dangerous goods (DG's). As such, the report has been commissioned to identify the extent of DG storage and assess whether threshold triggers for storage and transport movements have been exceeded to inform whether further reporting is required.

The report has identified the following DG to be stored at the premises:

- helium (within MRI machines and dewars) = 42,000L
- compressed oxygen cylinders = 1,800kg
- LPG cylinders = 132kg
- deisel storage tank = 55,000L
- AdBlue tank = 7,000L

The above DG types and quantities have been considered against the guideline "Applying SEPP 33 - Hazardous and Offensive Development's". This guideline provides a list of threshold levels, for the storage of DG, above which the regulator considers the DG storage to be potentially hazardous. In the event the threshold levels are exceeded, a Preliminary Hazard Analysis (PHA) is required in accordance with the provisions of this Policy, followed by a series of hazard analysis studies stipulated by the Department of Planning and Environment.

The proposed DGs have been considered against the guideline and it is found that threshold quantities for the DGs to be stored and transported are not exceeded. As such, the provisions of this Policy do not apply as the proposal is not identified as potentially hazardous. A recommended condition of consent will be imposed ensuring compliance with this report to ensure the extent of DGs stored will be consistent with the report.

Chapter 4 Remediation of land

The provisions of this clause states that a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, if the land is contaminated it is suitable in its contaminated state for the intended use and if remediation is required to make the land suitable for the intended use than the remediation occurs prior to the use of the land.

DA24/0294 has assessed the site suitability of the land in relation to land contamination via the submission of a Final Validation Report and numerous accompanying site investigations and remediation action plans. The assessment of DA24/0294 has found the land to be suitable for the industrial intended use noting site validation has previously been conducted and remaining areas of the site found to have contaminated materials (the Outer Sydney Orbital corridor) will be remediated as part of works endorsed via DA24/0294.

It is noted that remediation works will need to take place prior to filling works approved via DA24/0294. In this regard, the remediation works will be completed as DA24/0294 creates the building pad level relevant to the subject development. Furthermore, DA24/0294 has been accompanied by a Fill Management Protocol which will ensure only suitable materials are deposited onto the site during earthworks. In this regard, the site is considered suitable for the proposed warehouse development in relation to land contamination.

State Environmental Planning Policy (Resources and Energy) 2021

Chapter 3 Extractive industries in Sydney area

Clause 3.11 Restrictions on development in the vicinity of extractive resource sites

This section applies to land in the vicinity of Lot 4, DP 521268, Patons Lane, Erskine Park. Erskine Quarries, Erskine Park. The area of proposed works is located approximately 550m south-east of the Bingo Industries Patons Lane Resource Recovery Centre therefore, the provisions of this clause apply. The clause provisions and response is detailed below.

A council must not grant an application for consent to carry out development of land to which this section applies unless it is satisfied that, if the development is carried out in accordance with the consent:

(a) the proposed development will not be adversely affected by noise, dust, vibration or reduced visual amenity from any nearby extractive industry, and

The proposal consists of a warehouse operation which is suitably separated from the extractive industry by 550m including dense vegetation via a riparian corridor. In this regard, no adverse impacts relating to noise, dust, vibration or reduced visual amenity is envisioned.

(b) the proposed development will not in any way adversely affect any existing nearby extractive industry or prevent any such extractive industry from realising its full economic potential by adversely affecting future expansion of the extractive industry of which the council is aware.

As mentioned previously within this report, the operational and construction traffic generation from the proposal and wider estate, will not result in adverse congestion or traffic impacts on Patons Lane being the access route to Bingo Resource Recovery. There are no other potential adverse impacts envisioned to Bingo Resource Recovery beyond those addressed within this report and considered under DA24/0294.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 3 Standards for non-residential development

This Chapter applies to development, other than development for the purposes of residential accommodation, that involves a new building with an estimated development cost of \$5 million or more dollars. The proposal relates to a warehouse and distribution building with an estimated development cost of more than \$5 million. In this regard, the provisions of this Chapter apply to the proposal.

Clause 3.2 Development consent for non-residential development

The provisions of this clause are provided below, including commentary regarding how the provisions were considered/addressed.

(1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following:

(a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,

The area of proposed works is clear of any structures and will have an established building pad via DA24/0294. As such, there are no demolition waste products expected.

The application has been accompanied by a detailed Waste Management Plan which specifies the reuse of materials either on-site or off-site.

The warehouse material will include Greencore being a low carbon aluminum in substitution of more carbon intensive aluminum products.

As such, this provisions has been appropriately considered.

(b) a reduction in peak demand for electricity, including through the use of energy efficient technology,

The application has been accompanied by a sustainability report which specifies the following measures relevant to energy efficiency:

- the proposed office spaces are treated with high performance insulation, fabric and glazing assisting with heat transfer and reliance on energy consuming mechanical ventilation,
- the warehouse structure will be insulated, treated with a light coloured roof and have materials with a reflectivity index under 20%, also assisting with heat transfer,
- the development utilises higher WELS-rated fixtures and fittings to reduce hot water demand and in turn reduce energy demands,
- lighting systems will use LED lights, with motion sensors and timers for the warehouse portion of the development, improving energy efficiency,
- the development incorporates solar panels atop the roof being a renewable source of energy,
- all systems and appliances will be electric to ensure alliance with the NSW Governments commitment to carbon neutrality by 2050.

In this regard, the proposal has appropriately considered a reduction in peak demand for electricity.

(c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,

The proposed roof includes translucent sheeting providing access to sunlight in cooler months and the roof is treated with a colour to reflect heat in warmer months. Furthermore, the office is treated with louvres to prevent sunlight glare.

(d) the generation and storage of renewable energy,

The proposal includes the installation of solar panels atop the roof for energy capture and use.

(e) the metering and monitoring of energy consumption,

The estimated annual energy consumption has not yet been detailed however, it has been identified that all systems and appliances will be electric with solar panels to be installed capable of capturing renewable energy.

The Net Zero Statement accompanying the proposal specifies that in the next stage of the design, detailed predictive energy modelling will be undertaken to both demonstrate compliance with the energy efficiency provisions of the code and to inform the design and estimate the quantity of emissions (both direct and indirect) to be offset using solar photovoltaic systems or other measures.

Following this assessment, clear targets and strategies will be established to reduce these emissions in alignment with the commitment to achieving net-zero greenhouse gas emissions.

(f) the minimisation of the consumption of potable water.

The proposal includes the installation of rainwater tanks capturing rainwater for irrigation of landscaping and truck washing purposes. Furthermore, the processing of wastewater via an on-site sewage management system results in treated effluent also being used for irrigation of landscaping.

As such, the proposal has demonstrated measures to minimise potable water consumption.

(2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.

In accordance with the Embodied Emissions Reporting Technical Note issued by the Department of Planning and Environment (now Department of Planning Housing and Infrastructure) the method of reporting embodied emissions is via the NABERS Embodied Emissions Materials Form. A NABERS Embodied Emissions Materials Form has accompanied the application and been completed by a quantity surveyor.

In this regard, the embodied emissions attributable to the development have been quantified.

Clause 3.3 Other considerations for large commercial development

The relevant provisions of this clause are specified below including commentary regarding how the provisions have been addressed.

(1) In deciding whether to grant development consent to large commercial development, the consent authority must consider whether the development minimises the use of on-site fossil fuels, as part of the goal of achieving net zero emissions in New South Wales by 2050.

This Policy defines large commercial development as "the erection of a new prescribed office premises, prescribed hotel or motel accommodation or prescribed service apartments". The Policy then defines prescribed office premises as follows "means office premises with a net lettable area of at least 1,000m²".

The proposal includes an office area of 1,500m² as such, the provisions of this clause applies.

The application specifies that all systems and appliances utilised by the facility will be electric and that electricity will be captured via solar panels on the roof. Furthermore, the application has demonstrated that roof colour, translucent sheeting, glazing, louvre and awning designs will reduce the demand of mechanical ventilation devices and the installation of water efficient devices and lighting will further reduce the energy consumption demand.

In accordance with the Environmental Planning and Assessment Regulation 2021 the proposal is required to be accompanied by a Net Zero Statement which must detail how the development will not use fossil fuels after 1 January 2035. A Net Zero Statement has accompanied the proposal and will be discussed later within this report.

In light of the above, the proposal is considered to have addressed the provisions of this clause.

(2) Development consent must not be granted to large commercial development unless the consent authority is satisfied the development is capable of achieving the standards for energy and water use specified in Schedule 3.

(3) For the purposes of subsection (2), development is capable of achieving a standard specified in Schedule 3 if there is a NABERS commitment agreement in place to achieve the standard.

The proposal has been accompanied by a NABERS Agreement to Rate dated 23 September 2024 (AR00031). The agreement nominates the space type as an office base building and nominates the Rating Tool as NABERS Water and NABERS Energy.

Considering Schedule 3 of this Policy relates to NABERS Energy and Water ratings for the proposal, the Agreement to Rate is considered to address the relevant matters.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure

Clause 2.48 Determination of development applications - other development

This section applies to development carried out immediately adjacent to an easement for electricity purposes. The proposal is required to be notified to TransGrid considering the proximity of works to the transmission easement.

TransGrid were notified of the proposal via the NSW Planning Portal and responded to Council on 03 June 2024. The TransGrid response states the Development Application is acceptable.

The proposed works abutting the easement include a retaining wall and landscaping along the north-western boundary of the site.

Clause 2.98 Development adjacent to rail corridors

This section applies to development on land that is in or adjacent to a rail corridor, if the development is likely to have an adverse effect on rail safety. The requirements of this section requires the consent authority to give notice of the application to the rail authority for the rail corridor and consider any response received and any relevant guidelines.

The adjacent site to the west is currently under construction for the purposes of the North South Rail Link between St Marys Train Station and the Western Sydney Airport. As advised by Sydney Metro, Transport for New South Wales has delegated its rail authority functions for this rail corridor to Sydney Metro. In this regard and noting the proximity of works to the rail corridor, the application was notified to Sydney Metro via the NSW Planning Portal.

It is noted that DA24/0294 triggers the same notification provisions to Sydney Metro. The main concerns received for the two applications relate to construction vehicle traffic along Patons Lane. Sydney Metro has begun construction for the Stabling and Maintenance Facility associated within Sydney Metro rail project. The facility is located north-west of the site and is only accessible via Patons Lane. In this regard, construction vehicle traffic from the construction activities at the Alsip site could impact the construction of the Stabling and Maintenance Facility.

Sydney Metro have issued correspondence dated 23 January 2025 stating that the Traffic Impact Assessment dated 18 December 2024 has adequately addressed previous comments made by Sydney Metro. The correspondence also mentions that Sydney Metro are of the view that upgrade works to the external road network inclusive of Patons Lane and Collector Road round-about intersection and traffic signals at Luddenham Road and Patons Lane, will be completed prior to the issue of an Occupation Certificate. As mentioned in this report, the Voluntary Planning Agreement obligations will require these works to be completed prior to the Occupation Certificate being issued. A recommended condition of consent will ensure the provisions of the Voluntary Planning Agreement are adhered to.

It is also noted that cumulative construction traffic volumes on Patons Lane and conflicts with Sydney Metro's access have been considered as part of the DA24/0294 approval, with recommended conditions imposed on that consent to monitor construction traffic volumes.

Clause 2.122 Traffic-generating development

This section applies to warehouse or distribution centers with a site area of 8,000m² which is identified as the relevant size or capacity. This section requires notice to be given to Transport for New South Wales (TfNSW) and consideration of their comments if any are received. Additionally, the consent authority must take into consideration the following:

- accessibility of the site including the efficiency of movement of people and freight to and from the site and the extent of multi purpose trips,
- the potential to minimise the need to travel by car and to maximise movement of freight in containers or bulk freight by train, and
- any potential traffic safety, road congestion or parking implications of the development.

TfNSW responded on 03 June 2024 stating that the proposal will unlikely impact the classified road network. However, TfNSW advises that construction activities associated with the Sydney Metro Project and subject application are to be effectively managed and any cumulative traffic impacts are appropriately managed. In this regard, TfNSW has provided a recommended condition of consent to be imposed. The recommended condition is attached to this report. The condition relates to a Construction Pedestrian and Traffic Management Plan being formulated.

Further to the above, the following points are noted in response to matters of consideration specified in this section:

- the proposal includes separate access and egress for light and heavy vehicle movements as well as separate pedestrian access connections to the future footpath network within the adjoining collector road. The application has been accompanied by swept paths showing vehicles can maneuver in a clockwise direction around the hardstand and exit the site without obstructions,
- the proposal includes electric bicycle parking station, multiple bicycle parking stations, end of trip amenities and car share parking locations to minimise car travel,
- the proposed warehouse operation will have connections to the adjoining Collector Road which will intersect with Patons Lane and the Patons Lane/Luddenham Road intersection. The facilitating application (DA24/0294) includes Collector Road construction. It is noted that development applications for Patons Lane intersection and upgrade works connecting Patons Lane to the Collector Road and Luddenham Road is yet to be lodged however, under the Voluntary Planning Agreement obligations, the Patons Lane upgrade and intersection works are required to be completed prior to the issue of an Occupation Certificate. In this regard, the road connections will be in place prior to operation of the proposal which will provide the required access and egress routes to accommodate the traffic demand of the estate and proposal.
- the submitted Traffic Impact Assessment Report mentions the projected traffic generation from the proposal is below the anticipated traffic generation which was used to inform the required estate traffic measures (intersection works). In this regard, no excessive traffic generation beyond what was envisioned is proposed.
- the application has been accompanied by a dock usage plan which specifies the tenant specific purpose

of the docks along the northern and southern elevation of the warehouse. The southern elevation is occupied by 74 recessed loading docks utilised for load and go purposes as well as linehaul trailers. The northern elevation is occupied by 14 on grade docks and 4 recessed docks used for staging of client equipment (MRI machines and healthcare equipment), loading and unloading of trailers on the adjoining hardstand, loading and unloading of rail containers and for truck checks/install equipment in vehicles.

- as mentioned earlier, the cumulative construction traffic impacts on Patons Lane have been appropriately addressed via DA24/0294 which includes utilising southern driveway access/egress points to alleviate Patons Lane during Sydney Metro peak period usage.

In light of the above, the proposal has adequately addressed the relevant matters for consideration under this clause.

Clause 2.124A Development permitted with consent - generally

This section specifies development for the purposes of installing an EV charging unit may be carried out with consent if:

(a) the unit does not obstruct the following—(i) vehicular, cyclist or pedestrian access to or from, or entry into, a building, (ii) cyclist or pedestrian movement along a cycleway or footpath, and

The charging stations are located within the car park and does not conflict with vehicular, cyclist or pedestrian routes.

(b) the unit does not obstruct access to, or interfere with, a structure, device, fixture or equipment used for firefighting or fire protection, including a fire hydrant.

The units will be located within the site and within the car park and will not obstruct access to any measures used for fire fighting or fire protection purposes.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.6 Subdivision - consent requirements	Complies
Clause 4.1 - Minimum subdivision lot size	Complies - See discussion
Clause 4.1AA Minimum subdivision lot size for community title schemes	Complies - See discussion
Clause 4.3 Height of buildings	Complies - See discussion
Clause 5.21 Flood planning	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.6 Salinity	Complies - See discussion
Clause 7.7 Servicing	Complies - See discussion
Clause 7.24 Minimum number of lots at 221–325 Luddenham Road, Orchard Hills	Complies - See discussion
Clause 7.30 Urban Heat	Complies - See discussion
Clause 7.32 Development of land in the transport investigation area	Complies - See discussion

Clause 2.3 Permissibility

The proposal seeks consent for a purpose built warehouse and distribution facility, with ancillary office space, primarily used for the storage of bulky products and sensitive/fragile products. The proposal includes associated business identification signage and a refueling area which the applicant has stated will be used exclusively for COPE fleet with no access to the public.

The proposed development is defined as a warehouse or distribution centre and includes business identification signs being a type of signage as defined under Penrith Local Environmental Plan 2010.

The area of works is zoned E4 General Industrial under the Penrith Local Environmental Plan 2010 in which both warehouse or distribution centers and signage are permitted with consent.

Clause 2.3 Zone objectives

The E4 zone includes the following zone objectives.

- *To provide a range of industrial, warehouse, logistics and related land uses.*
- *To ensure the efficient and viable use of land for industrial uses.*
- *To minimise any adverse effect of industry on other land uses.*
- *To encourage employment opportunities.*
- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*

The proposal has had a adequate regard to the zone objectives considering the following:

- the proposal consists of a warehouse operation contributing to the envisioned ranged of operations,
- the area subject of works is subject of a recent rezoning proposal which found the land suitable for industrial uses subject to works in accordance with relevant planning provisions and Planning Agreement,
- the application has demonstrated that no adverse impacts are envisioned on other land uses nearby, this is discussed within this report, and
- the proposal is an employment generating activity with a 134 estimated number of staff.

Clause 4.1 - Minimum subdivision lot size

Clause 4.1 of the Penrith LEP has a minimum lot size of 1,000 square metres for land within the E4 zone. However, clause 4.1(4) states that the clause does not apply to subdivision of land under the *Community Land Development Act 2021*. As the application proposes further subdivision of Lot 4 (being a Community Title Lot created under Development Consent DA24/0294), this clause does not apply.

However, for completeness, the proposed two lot subdivision of Lot 4 to create Lots 9 and 10, are greater than 1,000 square metres as follows:

Lot 9 = 8.017 hectares, and
Lot 10 = 18.49 hectares.

Clause 4.1AA Minimum subdivision lot size for community title schemes

Clause 4.1AA applies to subdivision under the *Community Land Development Act 2021* of land in the RU2 Rural Landscape zone and C2 Environmental Conservation zone. This clause does not apply to land in the E4 General Industrial Zone.

The provisions of this clause require lot sizes to not be less than the minimum lot size shown on the PLEP Lot Size Map. Notwithstanding that the clause does not apply to E4 zoned land (on which the proposed warehouse will be located) the proposed Lots 9 and 10 are greater than the minimum lot size referenced at clause 4.1.

Clause 4.3 Height of buildings

The provisions of this clause states that the height of building is not to exceed the maximum height shown on the Height of Buildings Map. The Height of Buildings Map nominates a 24m maximum height of building for the land subject of the proposal.

The height of building is calculated from the vertical distance of existing ground level to the highest point of the building. The proposed building pad is identified as Pad 4a under DA24/0294. The lowest point approved for Pad 4a under DA24/0294 is RL 41.8m. In this regard, the existing ground level following completion of works for DA24/0294 for the site subject of the proposal will be 41.8m. The existing ground level prior to DA24/0294 works is RL 38.84m.

The proposed height of building is RL 57.7m. In this regard, the height of building is as follows:

- 18.86m based upon current ground level, and
- 15.9m based upon level of the site at the completion of earthworks under DA24/0294.

In both scenarios the height of building is within the 24m maximum.

Clause 5.21 - Flood planning

Part of the site is affected by overland flow flooding. The most affected area of the site is concentrated in the north-western portion of the Alspeck Industrial Business Park precinct. The bulk earthworks approved in Development Consent DA24/0294 established the site pads for the broader subject site. This was accompanied by a Flood Impact Assessment to assess the flood impacts from the proposed filling works in the flood affected area.

In addition, Development Consent DA24/0294 includes an Integrated Water Cycle Management and Civil Engineering Report which requires on-site detention tanks to control peak flows resulting from increased paved areas during a storm event.

The current proposed development has been reviewed by Council's Senior Development Engineer, who is satisfied that the proposal is consistent with previous stormwater management and flood impact assessments. As such, the proposal is satisfactory in relation to flood planning provisions relevant to flood function and flood behaviour, as well as impacts to the environment.

In relation to flood safe access and egress, the Department of Planning, Industry and Environment (now Department of Planning, Housing and Infrastructure) provided guidance (dated 17 July 2021) when assessing against provisions for capacity of existing evacuation routes for the surrounding area in the event of a flood. The guidance states if the proposal does not increase the capacity of a development by more than 150 dwellings, or 200 employee vehicles for commercial development, the consent authority should be satisfied that the development will not exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, when assessing against clause 5.21 provisions.

The current proposed development for a single warehouse will not generate 200 employees. Therefore, the proposal will not exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood. However, cumulatively, the broader estate will result in more than 200 employee vehicles. Therefore, the applicant has been requested to provide a Flood Management Plan to address this matter as part of the future Concept DA (discussed below) that will be required for the site. This is acceptable in this instance given that the site's flood affectations are primarily concentrated to the parts of the site not zoned E4 and because the proposed development for a single warehouse will not generate more than 200 employees.

Clause 7.1 Earthworks

This clause includes considerations prior to granting consent for earthworks. As mentioned previously within this report, DA24/0294 includes bulk earthworks establishing the pad level of the subject warehouse. The proposal seeks to refine the earthworks proposed via DA24/0294 to suit the warehouse development and includes a combination of retaining wall and batter interfaces to the site boundaries.

The collector road which fronts the site to the east slopes in a northerly direction aligning with the topography of the land. As such, the front landscape batter slopes upward toward the car park within the northern section of the site and slopes downward toward the car park within the southern portion of the site. This is in response to the slope of the road and car park levels. The pedestrian and car park entrances are situated centrally within the site where the car park and road levels align therefore providing an ease of access.

The southern portion of the site is occupied by a westerly sloping driveway for the truck entrance. The truck entrance driveway will be treated with a 1:3 batter to the southern neighbouring property. The remainder of the southern boundary aligns with the pad levels established via DA24/0294. It is noted that within the south-western corner the side setback is treated with a batter resulting from the lower hardstand levels.

The works proposed in DA24/0294 include an additional building pad to the south which is approximately 3m above the proposed works. It is noted the nearby pad is setback from the proposed works and the southern boundary is treated with landscaping providing adequate space and opportunities to integrate future development with the established and proposed site levels.

The western boundary of the site will be treated with a batter to flood storage basins established via DA24/0294. It is noted that a stormwater easement is located within the western setback to convey flows from downstream lots to the precinct stormwater management infrastructure located to the north of the site. The north-western portion of the site will refine the batter established via DA24/0294 to provide a retaining wall with a 1:4 batter. The height of the retaining wall in this location will reach 3.3m in height being the interface with the TransGrid easement.

The northern boundary of the site adjoins the driveway access to the stormwater management infrastructure servicing the precinct and access to the TransGrid easement. This interface is treated with a batter as part of the DA24/0294 works. The proposal seeks to amend this interface to a batter combined with retaining walls. The access driveway is highest at its eastern point and moves downhill to the west. Considering the site sits above the driveway the retaining wall will reach its highest point to the west with a height of 3m and its lowest height of 0.88m to the east.

It is noted that all boundaries are treated with a landscaped setback which will occupy the battered areas.

The proposal aligns with the bulk earthworks subject of DA24/0294 which establishes drainage patterns and will ensure the pad level is stable for future development. The proposed earthworks are purpose designed for the delivery of the warehouse and its associated operations. The facilitating works via DA24/0294 are accompanied by a bulk fill protocol to ensure suitable materials are deposited on-site and land contamination has been addressed as part of DA24/0294 to ensure quality of excavated soil is suitable.

The proposal is located centrally within the precinct therefore, adverse impacts on adjoining properties are not envisioned as a result of proposed earthworks. It is noted that DA24/0294 includes bulk earthworks across the precinct and the above commentary discusses how adjoining earthworks to those proposed as part of this application has been considered suitable.

DA24/0294 has included an assessment against Aboriginal heritage and General Terms of Approval for an Aboriginal Heritage Impact Permit have been received under that application. It is noted that works as part of DA24/0294 will be required to be completed prior to operation of this proposal noting the reliance upon works within DA24/0294. As such, impacts to relics will be appropriately addressed.

The proposed earthworks are not envisioned to impact any waterways or environmental sensitive areas noting the separation from the riparian corridor and areas identified for conservation.

In light of the above, the extent of earthworks have considered the relevant provisions of this clause and is considered satisfactory.

Clause 7.4 Sustainable development

The provisions of this clause include provisions for consideration regarding principles of sustainable development.

The matters for consideration within this clause have been previously been addressed within the commentary of this report under *"State Environmental Planning Policy (Sustainable Buildings) 2022"*.

Clause 7.6 Salinity

It is noted that DA24/0294 is accompanied by a Salinity Management Plan which will ensure salinity is appropriately managed at bulk earthworks stage. Furthermore, the Bulk Fill Protocol will ensure imported fill will be saline or non-saline and the proposal ensures stormwater is conveyed to appropriate stormwater management measures.

In this regard, the application has demonstrated that salinity provisions have been adequately considered.

Clause 7.7 Servicing

The provisions of this clause relate to the consent authority being satisfied required services are available.

The application has been referred to Sydney Water which responded on 27 June 2024. Sydney Water have specified that a service for drinking water exists within Luddenham Road and Patons Lane however upgrade works will be required to service the development. As such, a recommended condition of consent will ensure a Section 73 Certificate is issued prior to the issue of an Occupation Certificate to ensure water services are available.

The warehouse proposal relies upon a private on-site sewage management system which is subject of Development Application DA24/0654. This DA is still being assessed by Council staff. Sydney Water have acknowledged that the site will manage wastewater via a private arrangement.

Development Application DA24/0654 includes the proposed construction and operation of a private sewage treatment plant located within the northern most portion of the estate to service wastewater generation from the estate. Development Consent DA24/0294 includes the reticulated pipe connections to and from the private sewage treatment plant. The reticulated pipe connections include a sewer main, rising main and recycled water. These pipes are located within private land noting their private function. The applicant as part of DA24/0294 has confirmed that the pipes will be sized and configured to allow for future Sydney Water connections should this be pursued.

The sewer main will collect wastewater from the industrial developments which will drain toward the south-eastern extent of the land which will then be pumped back to the sewage treatment plant via a rising main

and pump station. The sewage treatment plant will then treat the wastewater and the final treated product will be distributed back to the industrial developments via the recycled water pipe and will be used for cooling towers, toilet flushing and irrigation.

The irrigation plans for the precinct identifies the subject development will have recycled water irrigated within the front landscaped setback. Documentation accompanying DA24/0654 specifies that recycled water irrigation areas will be treated with loamy soils to a depth of 1m to allow for proper absorption. The landscape plans accompanying the proposal identifies the required soil type within the recycled water irrigation areas which includes a bottom layer of ameliorated site subgrade soil to allow adequate drainage.

In addition, Development Application DA24/0654 is accompanied by a document stating that the soil types and landscaping proposed are suitable for recycled water irrigation. It is noted that the documentation makes reference to the landscape plans and planting schedule consisting of semi mature plantings with 75L install sizes. The landscape plans identify that the sewer and recycled water pipework, within private land, are grouped together at the front of the subject proposed warehouse site to allow improved lateral root growth and soil volumes for plantings within the front setback.

The applicant, as part of DA24/0654, has specified that the sewage treatment system design ensures adequate irrigation areas will be available for the amount of wastewater generation noting the staggered development of industrial development across the precinct.

Whilst the private sewage treatment plant proposal (including associated recycled water irrigation areas) has not yet been determined, the contents of that application have been considered as the proposed recycled water irrigation is situated within the proposed landscaped front setback. As mentioned above, DA24/0654 is accompanied by documents showing the suitability of the soil and planting types within the recycled water irrigation area. As such, future wastewater management implications on landscaping proposed now as part of this application have been considered.

The private sewage treatment plant is located on a separate lot therefore, Development Consent DA24/0294, which endorsed the creation of separate lots, included easements for drainage of sewage across the pipe connections to the plant and across the plant lot itself. In this regard, the subject site will have access to dispose of sewage and receive recycled wastewater.

Considering the precinct wide wastewater management system has not yet been endorsed, the applicant has proposed a **temporary pump out system** to manage wastewater in the interim. The temporary pump out system consists of an inground sewer holding well beneath the light vehicle car park which will be emptied via a pump out truck which will park on the southern entry truck driveway. The applicant has provided swept paths demonstrating that trucks can still enter the site via the driveway whilst the pump out truck is emptying the collection well. Furthermore, the pump out truck will not conflict with the entry fence location and will not overhang into the adjoining collector road.

The planning assessment of the private sewage system, under Development Application DA24/0654, is nearing completion. The applicant has submitted correspondence from IPART (the Independent Pricing and Regulatory Tribunal) confirming that they will be the licensing and regulatory authority for the proposed sewage system. Council's Environmental Management Officer has been liaising with IPART regarding recommended conditions in relation to Development Application DA24/0654.

On this basis, Council staff are satisfied that the proposed temporary pump out system for the proposed warehouse will in fact be temporary. A condition is recommended to require the proposed warehouse to connect to the future private sewage system within six months of that system becoming operational.

In this regard, the proposal is capable of managing sewage.

In relation to road infrastructure, the Voluntary Planning Agreement obligations and the internal Collector Road construction via Development Consent DA24/0294, will ensure the proposed development (prior to operation) will have access to the upgraded and new public road network.

Clause 7.24 Minimum number of lots at 221–325 Luddenham Road, Orchard Hills

Clause 7.24 of the Penrith LEP was inserted at the time of the Planning Proposal to rezone the land to permit industrial uses. The intent of the clause is to allow and provide for a mix of smaller format industrial uses and achieve diversity of scale and users.

The clause applies to all of the land known as the Luddenham Road Industrial Business Park. However, for the purposes of this development application, the clause is applicable to land referred to as Area 5, being mostly land which includes the broader subject site, noting that the separate site to the south is not yet owned by the applicant but is also within Area 5. It is understood that the developer is seeking to acquire the site to the south.

The snippet below is from Sheet 14 of the Lot Size Map in the Penrith LEP showing Areas 5 and 6 of the Luddenham Road Industrial Business Park.



Areas 5 and 6 Pursuant to Clause 7.24 of the Penrith LEP

Clause 7.24 states that development consent must not be granted for the subdivision of land unless the consent authority is satisfied that at least 40 lots will be created in "Area 5" on the lot size map. Although not relevant to this application, the clause also requires that at least 60 lots will be created in "Area 6". The land within Area 6 is not owned by the applicant and is not part of this current Development Application.

Clause 7.24 of the Penrith LEP reads as follows:

7.24 Minimum number of lots at 221–325 Luddenham Road, Orchard Hills

- (1) This clause applies to land at 221–325 Luddenham Road, Orchard Hills, identified as "Area 5" and "Area 6" on the [Lot Size Map](#).
- (2) Development consent must not be granted for the subdivision of the land to which this clause applies unless the consent authority is satisfied that—
 - (a) at least 40 lots will be created in "Area 5" on the [Lot Size Map](#), and
 - (b) at least 60 lots will be created in "Area 6" on the [Lot Size Map](#).

The proposal seeks consent to further subdivide one Community Title lot (Lot 4 - which will be created via Development Consent DA24/0294) into two Community Title lots (Lots 9 and 10). One lot will accommodate the proposed warehouse under this development application, and the remaining lot will be the residue lot.

Clause 7.24 requires the consent authority to be satisfied that "*at least 40 lots will be created*". Although the current proposal, and the preceding development consent, do not create 40 lots at this time, the proposed warehouse development represents the first approval to construct a building on the site. The applicant has also secured a tenant for this warehouse. Therefore, the proposed development, being the first construction of a warehouse building will not fetter the ability for the applicant to provide the minimum 40 lots required by the LEP at later and subsequent stages of the site's development.

The application is accompanied by a set of drawings which show the applicant's intention for the site. This is an indicative, conceptual masterplan. The applicant's conceptual masterplan is provided to the Panel members in the attachment of supporting documents. The conceptual masterplan does not form part of the Penrith LEP or DCP (Chapter 18) and the indicative concept has not been formally endorsed or agreed to by Council (either as a Concept DA or part of the DCP site-specific chapter). However, the applicant's conceptual masterplan identifies how the precinct is envisaged to be developed to comply with the minimum lots required by clause 7.24, particularly for Area 5 which is mostly owned by the applicant. The conceptual masterplan shows early staging super lot subdivision, with those superlots intended to be further subdivided at later stages. The conceptual masterplan shows that at the last stage of development 40 lots can be provided in Area 5. Most of the small lot formats are shown in the south-eastern portion of Area 5.

Therefore, the consent authority can be satisfied that 40 lots will be created on the relevant land and that the approval of the proposed, and first, single warehouse development does not fetter the ability of the applicant to provide the 40 lots at later and subsequent stages of development.

In addition, Development Consent DA24/0294 included a condition of consent for a restriction on title stating that no development (except for the preceding approved bulk earthworks, remediation, dam dewatering, roadworks and vegetation removal) is permitted on the preceding super-lots created (being Lots 2, 3, 4, 5, and 7), unless it is demonstrated to the satisfaction of Penrith City Council, that the subdivision yield for each burdened allotment is compliant with Clause 7.24(2) of the Penrith LEP. This restriction will carry over to the proposed development when approved Lot 4 is further subdivided into Lots 9 and 10. Given that Council has the ability to vary or remove the restriction, this is considered an appropriate mechanism in the interim to ensure that the 40 lots required by the LEP will be delivered.

The restriction on title was also imposed because the conceptual masterplan does not hold any statutory weight. The concept has not been lodged as part of a Concept DA and does not form part of the LEP or DCP. This matter has been discussed with the applicant in terms of moving forward. The applicant's planning consultant has provided correspondence dated 02 June 2025 outlining that the applicant will either lodge a Concept DA or an amendment to Chapter E18 of the Penrith DCP to embed the conceptual masterplan.

Clause 7.30 Urban Heat

The provisions of this clause require the consent authority to be satisfied that planning and design measures are incorporated to reduce the urban heat island effect that:

- maximise green infrastructure,
- retain water in the landscape,
- use design measures to ensure the thermal performance of the development achieves a high degree of passive cooling,
- use building, paving and other materials that minimise heat impacts,
- reduce reliance on mechanical ventilation and cooling systems, to conserve energy and to minimise heat sources.

The pre-developed state of the land is occupied by scattered trees whereas the proposal includes multiple tree plantings providing canopy coverage within the car park and embellishment to all site boundaries. A total of 198 trees are proposed to be planted as identified on the landscape plans with additional groundcovers and shrub planting. In this regard, the application has maximised green infrastructure.

The proposal will reuse captured rainwater and recycled wastewater for irrigation purposes and as such will retain water in the landscape.

As mentioned previously within this report, the application reports on the sustainability of the project via materials used to minimise heat transfer and reliance on mechanical ventilation, use of a cool colour roof to reflect heat, inclusion of translucent roof sheeting, use of solar panels as a renewable energy source, wider awnings facing northern elevations to shade the building and canopy plantings along the western elevation for shade.

In this regard, the proposal has incorporated planning and design measures to minimise urban heat impacts.

Clause 7.32 - Development of land in the transport investigation area

The site subject of the proposed works is identified on the Land Zoning Map as having Transport Investigation Area for a sliver of land on its eastern boundary abutting Luddenham Road. The provisions of this clause require concurrence from the Planning Secretary for development on land in the Transport Investigation Area. It is noted that proposed development will not occur within the Transport Investigation Area however, development will occur on a site that is identified as being Transport Investigation Area. Nonetheless, concurrence from the Planning Secretary under this clause has been issued dated 11 July 2024.

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

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	N/A
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	Complies
C8 Public Domain	N/A
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Complies
C11 Subdivision	Complies
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
C14 Urban Heat Management	Complies - see Appendix - Development Control Plan Compliance
D4.1. Key Precincts	N/A
D4.2. Building Height	N/A
D4.3. Building Setbacks and Landscape	N/A
D4.4. Building Design	N/A
D4.5. Storage of Materials and Chemicals	N/A
D4.6. Accessing and Servicing the Site	N/A
D4.7. Fencing	Complies - see Appendix - Development Control Plan Compliance
D4.8 Lighting	N/A
E18 - Luddenham Road Industrial Business Park	Complies - see Appendix - Development Control Plan Compliance

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

A Voluntary Planning Agreement (VPA) between the developer, landowner and Council has been executed which applies to the subject land. The VPA includes a contributions table to be delivered by the developer at certain timeframes. The contributions table is provided below for reference.

Item Contribution	Details	Timing
Works		
1. Upgrade of Patons Lane from Luddenham Road through to the new western estate entry roundabout that provides access into the Land	As shown in Works in Kind Plan.	Prior to the issue of the first Occupation Certificate for the Development
2. Construction of one (1) new roundabout at the estate entry on Patons Lane and one (1) new intersection on Luddenham Rd to the satisfaction of Council and Transport for NSW	As shown in Works in Kind Plan.	Prior to the issue of any Occupation Certificate for the Development
3. Construction of an intersection at the secondary site access to the satisfaction of Council and Transport for NSW	As shown in Works in Kind Plan.	Prior to 1 January 2026
Dedication of Land		
4. Dedication of land to Council for the widening of Luddenham Road	As shown in Land Dedication Plan	Prior to the issue of any Occupation Certificate for the Development.
Other Benefits		
Provision of road access to the 'Additional Lands' in the Eastern and Southern parts of the Land.	As shown in Land Dedication Plan.	

The contributions table relates to road upgrade, intersection works and land dedication for road purposes prior to the issue of the first Occupation Certificate for the development. The proposed development constitutes the first application which would warrant an Occupation Certificate. In this regard, a recommended condition of consent is imposed requiring the certifying authority to ensure the obligations within the VPA have been delivered/dedicated to Council prior to any Occupation Certificate being issued in accordance with the VPA.

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

Section 35BA Embodied emissions for non-residential development under Sustainable Buildings SEPP

The provisions of this section are specified below, including commentary regarding how they are addressed.

(1) A development application for non-residential development under State Environmental Planning Policy

(Sustainable Buildings) 2022 must:

(a) disclose the amount of embodied emissions attributable to the development, and

As per the Embodied Emissions Technical Note issued by the Department of Planning, Housing and Infrastructure, the method for reporting embodied emissions attributable to the development is via the NABERS Embodied Emissions Materials Form. A NABERS Embodied Emissions Materials Form has accompanied the application.

(b) describe the use of low emissions construction technologies in the development.

As discussed earlier within this report the application has described the use of low emission construction technologies within the Sustainability Report and Net Zero Statement.

(2) The amount disclosed under subsection (1)(a) must be determined using:

(a) the form published on the NSW planning portal as in force from time to time, and

The method of reporting embodied emissions attributable to the development have been done so in accordance with the Embodied Emissions Technical Note issued by the Department of Planning, Housing and Infrastructure.

(b) an itemised list of building materials for the development prepared by a quantity surveyor.

The NABERS Embodied Emissions Materials Form includes a list of building materials for the development which was prepared by a quantity surveyor.

(3) The amount disclosed under subsection (1)(a) must be certified by:

(a) a quantity surveyor, or

(b) a qualified designer, or

(c) an engineer, or

(d) an assessor accredited under NABERS.

The NABERS Embodied Emissions Materials Form has been certified by a quantity surveyor.

Section 35C Net zero statement for non-residential development under Sustainable Buildings SEPP

The provisions of this section are specified below including commentary relating to how they are addressed.

The development application must include evidence that the development:

(a) will not use on-site fossil fuels after the occupation and use of the development commence, or

The application has been accompanied by a Net Zero Statement prepared in accordance with the Net Zero Statement Technical Note issued by the Department of Planning, Housing and Infrastructure. The Net Zero Statement specifies the proposal is designed to operate without fossil fuels the moment it is occupied.

This will be achieved by providing only electric appliances and systems and using solar panels atop the roof to generate electricity.

(b) incorporates the infrastructure, or space for the infrastructure, necessary for the development to not use on-site fossil fuels after 1 January 2035.

Not applicable, see above.

The development application must include details of the following:

(a) any renewable energy generation and storage infrastructure forming part of the development,

As specified previously, the proposal includes the installation of solar panels atop the roof.

(b) passive and technical design features that minimise energy consumption by users of the development.

As mentioned previously within this report, the proposal includes numerous features to minimise energy consumption. Please see Section "State Environmental Planning Policy (Sustainable Buildings) 2022".

The development application must include the following information if available:

(a) the estimated annual energy consumption for the building in kilowatt hours per square metre of floor area,

(b) the estimated amount of emissions relating to energy use in the building, including direct and indirect emissions.

The applicant has specified within the Net Zero Statement that estimated energy consumption and greenhouse gas emission data is not yet available for the proposal.

The Net Zero Statement does mention; In the next stage of design, detailed predictive energy modelling will be undertaken to both demonstrate compliance with the energy efficiency provisions of the code and to inform the design and estimate the quantity of emissions (both direct and indirect) to be offset using solar photovoltaic systems or other measures.

Following this assessment, clear targets and strategies will be established to reduce these emissions in alignment with our commitment to achieving net-zero greenhouse gas emissions.

Whilst the energy consumption and emission data is not yet available, an estimate has been generated with the following totals:

- energy consumption = 12.8kWh/m² of warehouse spaces and 110kWh/m² of office space,
- the above equates to the following emissions per year - 11kg/m² for the warehouse and 96.8kg/m² for the office.

The evidence and information required to be included in a development application under this section must be certified by a mechanical or electrical engineer.

The Net Zero Statement accompanying the proposal has been signed and endorsed by Ray Chung identified as a chartered mechanical engineer. Furthermore, the Sustainability Report is verified by Ray Chung.

Section 35D Energy and water use for large commercial development under Sustainable Buildings SEPP

The provisions of this section are specified below inclusive of commentary regarding how they are

addressed.

(2) The development application must be accompanied by a copy of a NABERS commitment agreement that demonstrates the development is capable of achieving the standards for energy and water use specified in State Environmental Planning Policy (Sustainable Buildings) 2022, Schedule 3.

The application is accompanied by a NABERS Agreement to Rate as previously mentioned within this report.

(3) The development application must identify the method under Section J of the Building Code of Australia that will be used to demonstrate the development is capable of achieving the standards for energy use specified in State Environmental Planning Policy (Sustainable Buildings) 2022, Schedule 3.

The application specifies either Part J4 deemed to satisfy provisions for Building Fabric and Glazing or, will complete J1V3 Alternate Compliance modelling.

Section 79A Energy and water use for large commercial development under Sustainable Buildings SEPP

The relevant provisions of this Section requires the imposition of conditions of consent. The conditions require the following to be given to the consent authority using the NSW Planning Portal within 2 years from the issue of an Occupation Certificate:

- an assessment of the NABERS rating for water use achieved by the development, prepared by an assessor accredited under NABERS,
- an assessment of the NABERS rating for energy use achieved by the development, prepared by an assessor accredited under NABERS,
- evidence that the offsets required for the development under this section have been:
 - for ACCUs or large-scale generation certificates—purchased and surrendered, or
 - for Climate Active certification—obtained.

Furthermore, this Section includes provisions relating to what the above assessments must specify and that offsets for particular development must be determined.

The above provisions relate to imposition of conditions of consent and post consent requirements. As such, recommended conditions of consent will be imposed in accordance with the provisions of this section.

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

The proposed development is reliant upon infrastructure delivery subject of a separate development application for wastewater management (DA24/0654) and an approved application for facilitating bulk-earthworks and civil works (DA24/0294). In addition, provisions within an executed Planning Agreement apply to the land. As mentioned within this report, the proposal relies upon stormwater management infrastructure to be delivered via DA24/0294. The stormwater management works include gross pollutant traps, bio-retention system and a storage basin which will be in place to allow the completion of the warehouse. DA24/0294 includes the construction of the adjoining Collector Road in which driveway access and egress is provided to allow for the operational requirements of the warehouse.

The Planning Agreement obligations require the external road network upgrade and intersection works to be complete prior to an Occupation Certificate being issued for the precinct. In this regard, the development will have the required access to Luddenham Road to allow for the operation of the warehouse.

The application has demonstrated potable water, electricity and telecommunications will be available to the development noting lead in works subject of DA24/0294. DA24/0654 for the private sewage treatment plant for the precinct is yet to be determined however, the assessment of the application has progressed and a

level of comfort has been provided that the system is capable of servicing the demand generated by the proposal and wider precinct assumptions. As an interim measure, until the ultimate sewage treatment plant infrastructure is available, a temporary pump out system has been proposed which will service the development via a sewer collection well to be drained via a pump out truck on an ongoing basis. The temporary pump out system has demonstrated no adverse impacts to the operation of the warehouse and as such is considered a suitable interim measure to manage wastewater.

The documentation accompanying DA24/0654 has demonstrated that the quality of recycled water is suitable for the soil and landscape species proposed within the recycled water irrigation areas for the subject warehouse (being within the front landscaped setback). It is acknowledged that the private sewage treatment plant will service the wider estate therefore, the availability of irrigation areas need to be considered cumulatively especially noting the development of future individual lots is subject to separate and later applications. The applicant has specified that the available reuse and irrigation opportunities have been developed inline with predicted wastewater generation and rollout of development within the precinct. In this regard, the wastewater generated by the proposed warehouse development can be appropriately managed.

A recommended condition of consent will ensure when the precinct wide wastewater management infrastructure becomes available the temporary pump out will be decommissioned and connected to the wastewater management infrastructure.

The facilitating application for the precinct being DA24/0294 also sets up the pad level for the site and accordingly has addressed salinity, ground water, land contamination, flooding and vegetation clearing matters.

The application has demonstrated consistency with the interrelated applications/approvals for the precinct and recommended conditions will ensure Planning Agreement obligations are fulfilled prior to operation.

It is noted that DA24/0294 includes an endorsed cumulative noise impact assessment to guide development within the precinct considering the location of nearby sensitive receivers and the need to consider noise impacts holistically. The application has been accompanied by a noise impact assessment which demonstrated consistency with the proposed operation and cumulative assessment.

The proposal has provided a Traffic Impact Assessment which specifies the proposed traffic generation is below the assumed traffic generation for the site which formed part of the cumulative traffic assessment for the precinct which informed required upgrade and intersection works specified within the Planning Agreement. In this regard, no adverse operational traffic impacts are envisioned.

The cumulative construction impacts on Patons Lane which relates to access to Sydney Metro's facility has been addressed as mentioned within this report.

The proposed warehouse is treated with suitable articulation measures to present a satisfactory built form presentation integrated with substantial landscaping within the front setback, car park and all other boundaries.

The proposed operation is of a size and scale suitable for the precinct as demonstrated within this report and accompanying documents with the application. The development avoids light and heavy vehicle conflicts, demonstrates suitable regard to sustainable building development provisions and principles and proposes an appropriate built form.

In light of the above and findings within this report, there are no adverse likely impacts envisioned as a result of the proposal.

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

The facilitating Development Application being DA24/0294 endorsed the stormwater management infrastructure, creates the site pad level, includes vegetation clearing and land contamination suitability, reticulated services connections, flood mitigation works and constructs the Collector Road for connections to access and egress driveways. Furthermore, the Planning Agreement requires external road network upgrades and intersections to be delivered prior to operation. The development has also demonstrated that wastewater can be appropriately managed as mentioned within this report.

The site is subject of a recent rezoning transitioning the land from rural purposes to general industrial purposes. The rezoning was accompanied by a new chapter within Penrith Development Control Plan 2014 (DCP) and a Planning Agreement. The proposal has shown consistency with the DCP and Planning Agreement. As such, the site is considered suitable for the proposed warehouse development.

Section 4.15(1)(d) Any Submissions

Community Consultation

The Development Application was notified in accordance with Council's Community Participation Plan 2022 which involved written notice of the application provided to surrounding property owners with an exhibition date of 20 May 2024 to 2 June 2024. The Development Application was also advertised within the local newspaper the Western Weekender issue date 16 May 2024. No submissions were received in response.

Referrals

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

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

Section 4.15(1)(e)The public interest

The proposal relates to a precinct subject of a recent Planning Proposal to rezone the land from rural purposes to allow general industrial development. The Planning Proposal includes additions to the Penrith Development Control Plan 2014 and an accompanying Planning Agreement. The Planning Proposal and Planning Agreement would have been subject to public exhibition requirements and was found satisfactory to proceed. In this regard, and considering the consistency of the proposal with the exhibited planning controls and instruments, there are no adverse public interest impacts envisioned as a result of the proposal.

Conclusion

The proposal has demonstrated consistency with the applicable planning instruments and guidelines which have been formulated to guide development within the Luddenham Industrial Business Park. The cumulative assessments conducted as part of DA24/0294 (facilitating application for the precinct) for traffic and noise generation have been compared to the proposal which has demonstrated consistency with these documents. The proposal has demonstrated consideration of the interrelated applications on-site and the provisions of the subject Planning Agreement which will ensure external road network infrastructure is available prior to operation of the development. The proposal has addressed the relevant provisions of the regulations and has been notified in accordance with Council's Community Participation Plan to which no submissions have been received. The site is suitable for the development and there are no adverse likely impacts envisioned as a result of the proposal.

In light of the above and findings within this report, the application is considered worthy of support.

Recommendation

That Development Application DA24/0330 for a two lot Community Title Subdivision of an approved preceding lot (to be created via Development Consent DA24/0294) and the construction and operation of a new warehouse distribution centre with an associated office, including signage, civil works, site preparation works, truck wash, refueling bay, weighbridge, temporary sewage pump out and landscaping embellishment, at 211-227 Luddenham Road, Orchard Hills be approved by the Sydney Western City Planning Panel subject to the attached recommended conditions of consent.

CONDITIONS

General

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

Plan No.	Plan Title	Prepared By	Revision	Date
Architectural Plans				
Sheet 1 of 2	Plan of Subdivision of Lot 4	LTS	-	26/05/2025
Sheet 2 of 2	Plan of Subdivision of Lot 4	LTS	-	26/05/2025
DA002	Site Context Plan	Nettletontribe	A	13/02/2024
DA005	Site Plan	Nettleontribe	J	15/01/2025
DA010	General Arrangement Plan - Ground Floor Part A	Nettletontribe	G	15/01/2025
DA011	General Arrangement Plan - Ground Floor Part B	Nettletontribe	G	19/12/2024
DA015	General Arrangement Plan - Roof	Nettletontribe	G	19/12/2024
DA016	Office Layout	Nettletontribe	D	15/11/2024
DA021	Building Elevation - Sheet 1	Nettletontribe	F	15/11/2024
DA022	Building Elevation - Sheet 2	Nettletontribe	F	15/11/2024
DA023	Detail Elevation - Office	Nettletontribe	E	15/11/2024
DA031	Building Section	Nettletontribe	D	15/11/2024
DA080	Signage Location and Fence Plan	Nettletontribe	H	15/11/2024
DA081	Signage Details	Nettletontribe	E	18/09/2024
Civil Plans				
C000	Cover Sheet, Drawing Schedule, Notes and Locality Sketch	Henry & Hymas	3	16/02/2024
C100	General Arrangement Plan	Henry & Hymas	5	15/01/2025
C101	Detail Plan Sheet 1 of 2	Henry & Hymas	10	15/01/2025
C102	Detail Plan Sheet 2 of 2	Henry & Hymas	6	15/01/2025
C200	Stormwater Miscellaneous Details and Pit Lit Schedule	Henry & Hymas	4	15/01/2025
C201	OSD Tank Plan and Details Sheet 1 of 2	Henry & Hymas	3	11/09/2024

C202	OSD Tank and Details Sheet 2 of 2	Henry & Hymas	3	11/09/2024
C210	Stormwater Longitudinal Sections Sheet 1 of 2	Henry & Hymas	3	15/01/2025
C211	Stormwater Longitudinal Sections Sheet 2 of 2	Henry & Hymas	3	15/01/2025
C250	Stormwater Catchment Plan	Henry & Hymas	9	15/01/2025
SE01	Sediment and Erosion Control Plan	Henry & Hymas	4	11/09/2024
SE02	Sediment and Erosion Details	Henry & Hymas	4	11/09/2024
BE01	Bulkearthworks Cut and Fill Plan	Henry & Hymas	4	14/01/2025
Landscape Drawings				
00	Landscape Cover Sheet	Geoscapes	L	31/01/2025
01	Landscape Master Plan	Geoscapes	L	31/01/2025
02	Canopy Cover Calculation	Geoscapes	L	31/01/2025
03	Landscape Detail Plan 1	Geoscapes	L	31/01/2025
04	Landscape Detail Plan 2	Geoscape	L	31/01/2025
05	Landscape Detail Plan Sheet 3	Geoscape	L	31/01/2025
06	Landscape Detail Plan Sheet 4	Geoscape	L	31/01/2025
07	Landscape Detail Plan Sheet 5	Geoscape	L	31/01/2025
08	Landscape Section AA and Elevation	Geoscape	L	31/01/2025
08A	Landscape Section BB and CC	Geoscape	L	31/01/2025
09	Specification and Details	Geoscape	L	31/01/2025
10	Plant Schedule and Imagery	Geoscape	L	31/01/2025
Other Plans				
DA280* <i>*See Condition Relevant to this Drawing</i>	OSSM Irrigation - Indicative Irrigation Irrigation Plant	Nettletontribe	D	30/10/2024
-	Sewer Servicing Strategy (Temporary Pump Out)	Sparks and Partners Consulting Engineers	-	-

Report / Document Title	Prepared By	Date
Traffic Impact Assessment	Arcadis	18 December 2024
Noise and Vibration Impact Assessment	EMM	12 December 2024
Integrated Water Cycle Management Report	Henry & Hymas	January 2025
TransGrid Referral Response	TransGrid	03 June 2024
Waste Management Plan	Arcadis	08 April 2024
Bushfire Assessment	Peterson Bushfire	05 April 2024
State Environmental Planning Policy (Resilience and Hazards) 2021 Report	Riskcon Engineering	28 March 2024
Sustainability Report	Northrop	20 February 2024

- 2 **Prior to the issue of any Occupation Certificate**, the land to which the development consent relates being Lot 4 in DA24/0294 shall be registered with the NSW Land Registry Services with documentary evidence provided to Penrith City Council.
- 3 **Prior to the issue of an Occupation Certificate**, a lighting system shall be installed for the development to provide uniform lighting across common areas and driveways. Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).
- 4 **Prior to the issue of a Construction Certificate**, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92
- 5 The approved workshop, refueling area and truck wash (as shown on the stamped approved plans) are only to be used for the purposes of the warehouse operation. No third parties or members of the public are permitted to access and seek service from these facilities. The workshop, refueling area and truck wash are to remain ancillary to the warehouse operation.
- 6 The quantity of dangerous goods stored on-site shall be in accordance with the report prepared by Riskcon and dated 28 March 2024.
- 7 The development shall adhere too the provisions within the TransGrid referral response dated 03 June 2024.

- 8 The development shall comply with the recommendations specified within the approved Bushfire Assessment prepared by Peterson Bushfire and dated 05 April 2024.
- 9 The OSSM Irrigation Plan is not endorsed via this consent and is identified for indicative purposes only.
- 10 In accordance with Section 79A of the Environmental Planning and Assessment Regulation 2021 the following condition is imposed.

Within 24 months from the issue of an Occupation Certificate, the following must be given to the consent authority using the NSW planning portal:

- (a) an assessment of the NABERS rating for water use achieved by the development, prepared by an assessor accredited under NABERS,
- (b) an assessment of the NABERS rating for energy use achieved by the development, prepared by an assessor accredited under NABERS,
- (c) evidence that the offsets required for the development under this section have been:
 - (i) for ACCUs or large-scale generation certificates—purchased and surrendered, or
 - (ii) for Climate Active certification—obtained.

The assessment for section (b) above shall specify the contents prescribed within Section 79A of the Environmental Planning and Assessment Regulation 2021.

- 11 The temporary pump-out system must be decommissioned and the warehouse development is to be connected to the private sewage management system, within six (6) months of the private sewage management system being operational. Evidence must be provided to Council's written satisfaction that this has occurred.

12 **Water Reuse**

The Applicant must ensure any stormwater that is harvested for reuse during the interim stormwater management phases is first treated and disinfected in accordance with Australian Guidelines for Water Recycling: Managing Health and Environmental Risks: Stormwater harvesting and reuse (NRMC, EPHC and NHMRC 2009).

13 **Erosion and Sediment Control**

Works cannot commence until an updated Sediment and Erosion Control Report and Plans are prepared and submitted to the Certifier for approval. The following plans must be updated to include use of Type A or B sediment basins with an automated system of flocculant dosing, and as per the requirements of the Technical guidance for achieving Wianamatta–South Creek stormwater management targets (DPE 2002).

- Civil Plans, prepared by Henry and Hymas, project number 231664, Drawing numbers C000 – BE01, dated 15/01/2025
- Integrated Water Cycle Management Report COPE Warehouse prepared by Henry and Hymas, Issue 5, dated January 2025.

The Applicant must ensure the delivery and operation of all construction phase erosion and sediment controls on the site is supervised and certified by a Certified Professional in Erosion Sediment Control (CPSEC). Monthly audits are to be completed by CPSEC and kept on record for the duration of the works and an additional 12 months following completion of works.

Environmental Matters

- 14 **Prior to issue of a Construction Certificate**, remediation and validation of the site shall be completed to the satisfaction of Penrith City Council and in accordance with condition numbers 24 and 25 of Development Consent Notice of Determination DA24/0294 dated 05 May 2025.

Prior to issue of a Construction Certificate, Council approval is to be obtained in writing, demonstrating that Penrith City Council is satisfied that the site is suitable for the proposed use.

- 15 An appropriately qualified person/s shall:

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

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

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

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

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

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

17 All waste materials resulting from the construction phase of the development, and that are 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.

18 Construction waste materials associated with the development are to be classified and disposed of at a lawful waste facility.

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.

19 The design and construction recommendations provided in the Council approved 'Cope Sensitive Freight Noise and Vibration Impact Assessment (Report E230790 RP1 version 5)' prepared by EMM Consulting Pty Ltd and dated 12 December 2024 shall be implemented and incorporated into the design and construction of the development and shall be shown on plans accompanying the Construction Certificate application.

20 Noise levels from operation of the premises shall not exceed the relevant noise criteria detailed in the Council approved 'Cope Sensitive Freight Noise and Vibration Impact Assessment (Report E230790 RP1 version 5)' prepared by EMM Consulting Pty Ltd and dated 12 December 2024.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

21 All vehicle washing shall be conducted in the dedicated wash bay. The wash bay is to be connected to sewer or to the approved on-site sewage treatment plant/system and in accordance with applicable requirements.

22 Waste oil shall be stored in a covered and bunded area and regularly removed to a waste oil recycle operation.

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

23 All works and storage areas where spillages are likely to occur shall be bunded. Where Australian Standards apply, bunding construction and capacity must comply with those standards. Where Australian Standards do not apply, the size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater.

24 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system.

25 Construction works shall be carried out in accordance with the NSW Department of Environment and Climate Change's "Interim Construction Noise Guideline" 2009.

- 26 **Prior to the issue of a Construction Certificate**, a Construction Environmental Management Plan (CEMP) is to be prepared by a suitably experienced / qualified person and submitted to Penrith City Council for approval. If Council is not the certifying authority, a copy of Council's approval is to be provided to the Principal Certifier. The CEMP is to address the environmental aspects of the development and is to include details on the environmental management practices and controls to be implemented on the site.

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

- management roles, responsibilities and contact information
- implementation and monitoring of environmental management controls
- noise and vibration control and hours of work,
- waste management (including solid and liquid waste),
- dust management
- pollution incident and response
- community communications and complaints response protocol

All construction activities on the site are to be implemented and carried out in accordance with the approved CEMP.

- 27 **Prior to the issue of the Construction Certificate**, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Penrith City Council for consideration and approval. Suitable data and information assessed by a suitably qualified acoustic consultant is to be supplied to demonstrate compliance with the established noise criteria and the approved 'Cope Sensitive Freight Noise and Vibration Impact Assessment (Report E230790 RP1 version 5)' prepared by EMM Consulting Pty Ltd and dated 12 December 2024.

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

- 28 **Prior to the issue of the Occupation Certificate**, a Compliance Certificate, prepared by a suitably qualified acoustic consultant, is to be submitted to the Principal Certifying Authority and be approved by Penrith City Council. The Certificate is to demonstrate that the development, inclusive of all plant and equipment has been constructed to comply with the established noise criteria.

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

- 29 All mechanical plant and equipment is to comply with the noise criteria established in the Council approved 'Cope Sensitive Freight Noise and Vibration Impact Assessment (Report E230790 RP1 version 5)' prepared by EMM Consulting Pty Ltd and dated 12 December 2024.

30 **Prior to the issue of the Subdivision Certificate**, a positive covenant is to be registered against each new land title/Lot that refers to the 'Noise Impact Assessment (Ref: E230918 RP2 version 3)' prepared by EMM and dated 20 February 2025 (the EMM Report).

The covenant is also to:

- reference 'Appendix A Individual Lot Contributions' of the EMM Report,
- provide advice on the requirement to prepare a Noise Impact Assessment Report (prepared by a suitably qualified acoustic consultant) to determine the design and construction measures required to minimize noise impacts from future development (built form and operational activities),
- provide advice that Development Applications submitted to Penrith City Council for development of individual Lots are to include a Noise Impact Assessment Report (prepared by a suitably qualified acoustic consultant) demonstrating an ability to achieve the noise criteria established within the EMM Report. Where a proposed development exceeds the individual lot contribution detailed in Appendix A of the EMM Report, a Cumulative Noise Impact Assessment is required to be submitted with the Development Application, that provides an updated review of the EMM Report, in accordance with the NSW EPA Noise Policy for Industry, and that assesses and justifies the proposed exceedance in consideration of the cumulative impact of development of the Alsip Industrial Business Park as a whole.

The authority recorded as empowered to vary, modify or extinguish the positive covenant is to be Penrith City Council.

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

Should contamination be found during development works and should remediation works be required, Penrith City Council is to be notified prior to commencement of remediation.

All remediation works are to be carried out in compliance with State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021, applicable NSW EPA Contaminated Land Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure 2013 [NEPC2013].

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

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

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

In the event that the work relates to activities inside the building and that 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.

- 34 Mud and soil from vehicular movements to and from the site, during construction of the development (including landscaping) must not be deposited on the road.

BCA Issues

- 35 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of Australia and AS 1428 “Design for Access and Mobility”. Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.
- 36 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).

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

Utility Services

- 37 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water, which verifies that water is available to the development. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the lodgement and issue of a Subdivision Certificate or any Occupation Certificate, whichever occurs first.

- 38 **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.

- 39 **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.

- 40 **Prior to the issue of an Occupation Certificate**, written certification from the relevant service provider is required confirming telecommunications infrastructure is installed and available for the development.

Construction

- 41 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.

42 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.

Engineering

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

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

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

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

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:

The provision for a Roads Act Application may not be required pending the timing of works and dedication of the Collector Road as public road per DA24/0294 provisions.

- 44 The stormwater management system shall be consistent with the plan/s lodged for development approval, prepared by Henry & Hymas, reference number 231559_DA_C000 to 231559_DA_BE01 (stamped plans within Condition 1 of this consent) and commitments made in the Integrated Water Cycle Management Report COPE Warehouse prepared by Henry and Hymas.

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

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

- 45 **Prior to the issue of any Construction Certificate**, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with Penrith Development Control Plan 2014, AS2890.1, AS2890.2 and AS2890.6.

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

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

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

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

Note:

The provision for a Roads Act Application may not be required pending the timing of works and dedication of the Collector Road as public road per DA24/0294 provisions.

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

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

50 **Prior to the issue of any Occupation Certificate**, the Principal Certifier shall ensure that the stormwater management systems (including on-site detention and water sensitive urban design)

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

Details of the approved and constructed system/s shall be provided as part of the Works As Executed drawings.

- 51 **Prior to the issue of any Occupation Certificate**, a restriction on the use of land and positive covenant relating to the stormwater management systems (including on-site detention and water sensitive urban design) shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Council's Stormwater Specification for Building Developments - Appendix F.
- 52 **Prior to the issue of any Occupation Certificate**, directional signage and line marking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifier.
- 53 The stormwater management system shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.
- Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management systems.
- 54 **Prior to the issue of a Construction Certificate**, the Certifier shall ensure the sight distance requirements are in accordance with AS2890.1, Figure 3.2 and Figure 3.3 / AS2890.2, Figure 3.3 and Figure 3.4).
- 55 **Prior to the issue of any Construction Certificate**, the Certifier shall ensure that all vehicles accessing the site can enter and exit from/to the public road access in a forward direction. Any turning movements to comply with in accordance with AS2890 for the relevant vehicle.
- 56 **Prior to the issue of Construction Certificate**, the Certifier shall ensure that secure bicycle parking is in accordance with AS2890.3 Bicycle Parking Facilities.
- 57 **Prior to the issue of any Occupation Certificate**, an updated Workplace Travel Plan is to be prepared and approved by Council to minimise car use by staff. The plan shall set achievable targets and encourage participation through incentives to travel to/from work by other means than by car, such as walking, cycling, car-pooling and public transport. The plan is to be implemented and reviewed by the management of the facility on a regular basis and operate for the life of the development.
- 58 **Prior to the issue of a Construction Certificate**, a Design Structural Certificate of the sewer holding tank is to be provided to the satisfaction of the Certifying Authority. The structural design is to take into account the loads of the light vehicle carpark.

59 **Prior to the issue of any Construction Certificate**, the applicant shall prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with TfNSW. The CPTMP needs to specify matters including, but not limited to, the following:

- To mitigate the impact of construction traffic and reduce interaction with other projects, all access to the site shall be provided from Patons Lane via the intersection of Luddenham Road.
- Patons Lane is to always remain open to traffic.
- Proposed haulage routes and construction vehicle access arrangements.
- Predicted number of construction vehicle movements, detail of vehicle types and demonstrate that proposed construction vehicle movements can be accommodated within the context of road changes in the surrounding area.
- Identify any potential impacts to general traffic, cyclists, pedestrians, and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works.
- Identify the cumulative construction activities of the development and other projects within or around the development site.
- Proposed measures to minimise the cumulative impacts on the surrounding road network should be clearly identified and included in the CPTMP.
- Construction program and construction methodology, including any construction staging.
- Consultation strategy for liaison with surrounding stakeholders, including Sydney Metro and other developments under construction.
- Details of crane arrangements including location of any crane(s) and crane movement plan.
- Proposed construction hours.
- A detailed plan of any proposed hoarding and/or scaffolding.
- Provide the direct contact details to businesses and residents impacted by the construction work and TfNSW via development.ctmp.cjp@transport.nsw.gov.au to resolve issues during construction in real time. The applicant is responsible for ensuring the builder's direct contact number is current during any stage of construction; and
- Submit a copy of the final plan to TfNSW for endorsement via development.ctmp.cjp@transport.nsw.gov.au.

Landscaping

60 All landscape works are to be constructed in accordance with the stamped approved plans and Chapter C6 Landscape Design of Penrith Development Control Plan 2014.

Landscaping shall be maintained:

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

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

- 61 The following series of reports relating to landscaping are to be submitted to the nominated consent authority at the appropriate time periods as listed below.

1. Implementation Report

Upon completion of the landscape works associated with the development and **prior to the issue of an Occupation Certificate for the development**, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development.

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

2. 3 Year Landscaping Report

3 years after an Occupation Certificate was issued for the development, a suitably qualified landscape professional shall prepare a Landscaping Report for Council's consideration and approval, certifying to one of the following:

- (a) The landscaping on site has matured and is in accordance with the original landscape approval.
- (b) The landscaping on site has not matured in accordance with the original design philosophy and requires significant restoration.

In this case, restoration plans are to be submitted to Council for its consideration and approval. The approved plans shall be implemented at the expense of the property owners.

- 62 No trees are to be removed, ring barked, cut, topped, or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Chapter C2 – Vegetation Management of Penrith Development Control Plan 2014.
- 63 **Prior to the issue of a Construction Certificate**, retaining wall details relating to colour, finish, location and height shall be provided to Penrith City Council for approval. The retaining wall product shall ensure a high quality finish and shall be installed in accordance with the approved details via this condition.

Subdivision

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

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

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

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

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

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

65 **Prior to the issue of a Subdivision Certificate**, the preceding approved Lot 4 in Development Consent DA24/0294 shall be registered with the NSW Land Registry Services with documentary evidence provided to Penrith City Council.

Development Contributions

66 This condition is imposed in accordance with Penrith City Council's Section 7.12 Contributions Plan for Non-Residential Development. Based on the current rates applicable to contributions payable under this plan, **\$522,117.00 is to be paid to Council prior to issue of a Construction Certificate** being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.12 Contribution plan.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 Contributions Plan for Non-Residential Development is available on Council's website.

67 **Prior to the issue of any Occupation Certificate**, a compliance matrix / statement is to be submitted to and be approved by Penrith City Councils City Planning – Contributions Officers that outlines the relevant infrastructure (inclusive of Patons Lane, Luddenham Road and Collector Road intersections and upgrade works as well as other relevant items), contributions payable or commitments to be delivered in accordance with the registered/applicable Planning Agreement. It must be demonstrated, via endorsement from Penrith City Council, that the applicable commitments have been satisfied **prior to the issue of any Occupation Certificate**.

- 68 **Prior to the issue of a Construction Certificate**, the Housing and Productivity Contribution (HPC) set out in the table below is required to be made.

Housing & Productivity Contribution	Amount (\$)
Housing and Productivity Contribution (Base Component)	\$ 642,639
Strategic Biodiversity Component	\$ 1,224,878.4
Total Contribution Payable	\$ 1,867,517.4

The HPC must be paid using the NSW Planning Portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the Environmental Planning and Assessment (Housing and Productivity Contributions) Order (HPC Order). The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the Environmental Planning and Assessment Act 1979 agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the Environmental Planning and Assessment Act 1979 to the development, or the HPC Order exempts the development from the contribution.

The amount of the contribution may be reduced under the HPC Order, including if payment is made before 1 July 2025.

Certification

- 69 A Subdivision Certificate is to be obtained prior to the release of the final plan of subdivision. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.

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

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

The Principal Certifier shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 6.6 of the Environmental Planning and Assessment Act 1979.

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

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

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

Operation of OSSM

- 72 **Prior to the issue of the 'Approval to Operate', a Commissioning Certificate for the interim pump-out on-site sewage management (OSSM) system shall be provided to Penrith City Council for approval.**

This Certificate shall certify that the interim pump-out system and associated sewage pump stations have been installed, tested and are operating in accordance with the conditions of this approval.

Prior to the issue of the Occupation Certificate and before the OSSM system can be used, an 'Approval to Operate' for the OSSM system is to be sought from and issued by Penrith City Council.

- 73 All wastewater generated on the site is to be diverted to the interim pump-out service until the ultimate estate-wide wastewater service is available as approved by IPART under the *Water Industry Competition Act 2006*. Connection to the ultimate estate-wide wastewater service is to be made within six (6) months of commissioning of the IPART approved system.

The interim pump-out service is to be installed and managed in accordance with the:

- "Environmental and Health Protection Guidelines On-Site Sewage Management for Single Households",
- Australian Standards AS 1547:2012,
- Council's On-Site Sewage Management and Greywater Reuse Policy,
- 'Sewer Servicing Strategy' (24189) for Industrial Warehouse Development Cope Sensitive Freight DC at 211-227 Luddenham Road, Orchard Hills prepared by Sparks and Partners dated 20-5-2025,
- 'Hydraulic Services Site Plan' (Rev 6) for COPE Sensitive Freight Warehouse 211-227 Luddenham Road, Orchard Hills prepared by Sparks and Partners dated 28-3-2025, and
- 'Wastewater Flow Assessment' (Revision 5) for Alspec Industrial Business Park Onsite Sewage Management System Luddenham Road, Orchard Hills prepared by Aquacell Water Recycling dated 19-5-2025.

The interim pump-out system is to be utilised for COPE Warehouse with a daily wastewater load of 13,043 litres in accordance with the 'Wastewater Flow Assessment' (Revision 5) for Alspec Industrial Business Park Onsite Sewage Management System Luddenham Road, Orchard Hills prepared by Aquacell Water Recycling dated 19-5-2025.

- 74 Penrith City Council is both the consent authority and certifying authority for the installation of the on-site sewage management system. **It is your responsibility to contact Council to organise all inspections required for the installation of the system.**

In this regard, the interim pump-out wastewater tank(s) will need to be inspected on completion of the system's installation (before backfilling occurs) and prior to its commissioning, to ensure compliance with those conditions specific to the installation of the system. A copy of the satisfactory inspection report carried out by Council shall be submitted to the Principal Certifying Authority (PCA) if Council is not the PCA.

- 75 The interim pump-out service shall not be altered without the prior approval of Council.
- 76 All house drainage and sanitary plumbing shall be carried out in accordance with the requirements of the Plumbing and Drainage Act 2011 and the Plumbing Code of Australia.
- 77 There shall be no effluent runoff from the subject property to adjoining premises, public places or reserves.
- 78 Upon connection to the estate-wide ultimate wastewater service, the contents of the interim pump-out wastewater tank are to be removed by a licensed waste contractor to a licensed waste facility and the tank/s appropriately decommissioned.
- 79 The interim pump-out service tank shall have a minimum capacity of 80,000 litres.
- 80 **Prior to the issue of the Occupation Certificate**, an Operational Wastewater Management Plan (OWMP) for the system is to be provided to Penrith City Council for consideration and approval. The OWMP shall be prepared by a suitable qualified consultant. The OWMP is to address:
- All environmental aspects of the operation of the interim pump-out service
 - All systems and controls to be implemented to minimise the potential for any adverse environmental impacts
 - A program for ongoing monitoring and review to ensure that the OWMP remains contemporary with relevant environmental standards. Council is to be consulted prior to any amendments of the OWMP. Council may request a review of the OWMP or any proposed amendments.
- The OWMP should include but is not limited to the following:
- System information (including tank specifications and site plans)
 - Monitoring and testing
 - Maintenance and servicing program (including telemetry/Building Management System monitoring)
 - System failure contingency
 - Odour management
 - Health and safety
- The interim pump-out service system is to be operated in accordance with the requirements of this Plan.
- 81 The interim pump-out service shall be emptied as required and determined via the installed remote monitoring (telemetry/Building Management System). A high-water level float alarm is to be installed and will trigger an immediate pump-out of the wastewater tank/s.

The tank/s of the pump-out system are to be sealed to ensure that surface water does not enter them.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C5 Waste Management

The proposal has been accompanied by a Waste Management Plan which nominates waste storage areas under the 20m wide awning along the northern hardstand of the site. This area is suitable for access via a waste vehicle noting the use requires heavy vehicle access. It is noted that heavy vehicles access to the site is via a designated entry and exit driveway and hardstand which circulates the warehouse. In this regard, waste collection is considered feasible and adequate space is provided on-site to store and collect waste generated by the proposal.

C6 Landscape Design

The proposed landscape design has been discussed with Council's Senior Landscape Architect who is satisfied with the proposed landscaping. The inclusion of a mix of species, shrubs and groundcovers is considered satisfactory. The proposal includes canopy plantings along all site boundaries, canopy coverage in the car park and enhanced planting along the western elevation to contribute to shade and visual interest from the future Outer Sydney Orbital.

It is acknowledged that the proposal includes a large extent of impervious area however, the application has demonstrated suitable landscaping beyond the landscape setback provisions as discussed later within this report and that stormwater can be suitably managed.

It has been previously mentioned within this report that the recycled water irrigation areas and soils are suitable for the landscaping proposed.

C14 Urban Heat Management

The proposal has been accompanied by a calculation demonstrating that 40% canopy cover of the parking spaces can be achieved. The trees planted within the car park are treated with tree pits to allow suitable growth and canopy from trees within the front setback will encroach over the car park.

The landscaped areas will be irrigated via stormwater reuse and via treated effluent as part of the precinct on-site sewage management strategy.

The proposed roof colour achieves a solar reflectance index of 88 being well above the minimums specified in this Chapter of the DCP. Furthermore, the proposed includes a substantial northern facing awning and canopy plantings along the western elevation and within the car park for shade. As such, the proposal has addressed design and planning measures to provide a cooling effect.

This report has discussed how the proposal demonstrates cooling through building design principles under the title *"State Environmental Planning Policy (Sustainable Buildings) 2022"*.

D4 Industrial Development

The controls specified within this Chapter have already been assessed within the site specific Chapter of the Penrith Development Control Plan 2014 (Chapter E18) which applies to the site. The controls within this section which are yet to be assessed relate to fencing.

Section 4.7 Fencing

The proposed fencing consists of 2.1m high palisade fencing at the front boundary, bordering the car park and on the side boundaries up to the building line. The fencing located behind the building line and along the northern, southern and western boundaries consists of chain link fencing with three rows of barbed wire atop with an overall height of 2.1m. The fencing located adjacent to the light vehicle driveway and pedestrian entrance consists of 2.1m high aluminum batten fencing to integrate with signage.

The palisade fencing along the front of the property is setback behind the front boundary line and is integrated with proposed landscaping.

In this regard, the proposed landscaping is considered suitable and will not result in any adverse visual impacts.

E18 Luddenham Road Industrial Business Park

18.2 Site Development and Urban Design

Building Setbacks

The precinct setback requirements are specified within table E18.1 as shown below.

Table E18.1: Minimum building setback requirements

Road Classification	Minimum Setback
Arterial Road - Luddenham Road (from the ultimate boundary of the road widening corridor)	20m
Distributor – Paton's Lane	15m
Collector Road – North South Boulevard	15m
Estate Roads	7.5m
Rear and Side Boundaries	5m
Outer Sydney Orbital Corridor	5m

The proposal addresses the collector road and is therefore required to provide a 15m front setback. The Outer Sydney Orbital abuts the site to the west therefore, the rear setback is required to be 5m. The Table above specifies the side setbacks as 5m.

Notwithstanding the above setback requirements, the controls specify development for the following purposes are permitted within the defined setback to the road:

- landscaping,
- access and driveways,
- signage,
- drainage works, and
- car parking located behind a 5m landscape buffer.

The front setback to the building is approximately 37m being well beyond the 15m setback provision. The proposal includes a car park within the front setback which is setback behind a 7.5m wide landscaped area and therefore complies with the above provisions. The remaining structures within the front setback include signage, fencing (forming part of landscaping), utility services (substation) and access driveways being permitted structures in accordance with the Penrith Development Control Plan 2014 (DCP) provisions.

The side setbacks to the southern boundary comply however, the proposed 40m awning covering the refueling area and the truck wash along the northern side of the proposal encroaches the 5m side setback by 2m. The awning encroachment extends for 33m across the refueling area and 27.5m across the truck wash. It is noted that this encroachment for cumulatively 60.5m across a 391m northern boundary line located 145m from the collector road is considered minor and is not envisioned to result in any adverse visual impacts. Furthermore, the truck wash has a height of 7.5m (being below the awning height) and the encroachment will not extend into the landscaped setback which is occupied by canopy plantings in this location. The setback encroachment fronts a driveway accessing the stormwater management systems (bio-retention and storage basin) as well as the TransGrid easement. In this regard, the proposed encroachment is not addressing a highly trafficable area resulting in minimal visual impact. In light of the above facts, the proposal is not envisioned to generate an adverse visual impact and is considered acceptable.

The proposed rear setback complies with the 5m requirement.

Landscaping

The landscape setback provisions are detailed within Table E18.2 below.

Table E18.2 Landscape setback requirements

Luddenham Road (from the boundary of the ultimate road widening corridor)	10m
Paton's Lane	6m
All other Roads	50% of building setback
Rear Boundaries	2.5m
Outer Sydney Orbital corridor	5m

The required building setback to the collector road is 15m therefore, the landscaped setback to the road is required to be 7.5m which the application provides. The rear boundary which fronts the Outer Sydney Orbital is provided with a 5m landscaped rear setback. It is noted that

additional landscaping occupies the area immediately west of the warehouse thereby creating another layer of landscaping separation from the building to the rear setback of the built form.

The proposal includes landscaping along the northern and southern boundaries within a 3m setback and includes tree plantings. As such, the application has provided canopy plantings along the northern and western boundaries to assist cool the building and hardstand.

The proposed landscaping has been shown within a detailed landscape plan package which addresses the civil engineering plans accompanying the proposal.

The proposed car park includes engineered tree pits as well as perimeter tree plantings to ensure adequate canopy coverage over the proposed parking spaces.

As mentioned earlier within this report, the recycled water irrigation area is located within the front landscaped setback and documentation has been submitted as part of DA24/0654 indicating that the proposed species and soil types in the front setback can be achieved noting the recycled water irrigation treatment to these areas. In this regard, the large tree plantings can be achieved to adequately screen the industrial built form.

18.2.3 Building and Urban Design

The proposed warehouse has a length of 356m and width of 125m (including office) with a prominent elevation to the collector road and future Outer Sydney Orbital. The northern and southern elevations will address future industrial development and stormwater management structures. The eastern (road) frontage includes a stepped office space from the warehouse setback beyond the building setback controls and includes substantial landscaping via the front setback and within the car park. Furthermore, the office and warehouse is treated with high quality finishes consisting of aluminum blades of a colour consistent with the COPE branding, glazing and aluminum panels.

The northern and southern elevations are articulated via awnings and finishes including pre cast concrete walls and profiled metal sheeting. The elevations are further articulated via a differing roof colour consisting of dover white and canopy plantings along the side boundary.

The rear elevation is treated with differing materials specified above and includes a business identification sign. louvres and strips of metal sheeting with a differing colour. Furthermore, the western elevation will be screened via canopy plantings with a large setback allowing optimal vegetation growth. In this regard, the proposal will have a suitable frontage to the future Outer Sydney Orbital.

The proposal includes an outdoor recreation area for staff integrated with the office building and associated smoker shelters.

18.2.4 Signage and Estate Entrance Walls

As discussed earlier within this report under title "*State Environmental Planning Policy (Industry and Employment) 2021*", the proposed signage consists of high quality materials and is situated within the site.

The proposed signage includes a 4m high pylon sign on ground at the truck exit and two wall mounted business identification signs (one facing east and one facing west). The remaining signs consist of wayfinding and comply with the signage height and width provisions in the DCP

(4m high and 2m wide).

The proposed wall mounted signs (12m wide by 3.6m high) do not comply with the 4m height and 2m wide provision in the DCP. However, the signs are considered acceptable noting the signage integrates with the elevation materials, uses high quality materials, will not be illuminated and contributes to elevation articulation.

18.2.7 Interface with the Transmission Easement

The proposal complies with the 5m building setback from the transmission easement development control.

18.3.2 Noise Pollution

The application has been accompanied by a Noise Impact Assessment which specifies operational details consistent with the documentation submitted with the application. The operational scenarios used to predict noise levels include heavy and light vehicle movements, forklifts, mechanical plant and rooftop ventilation. The operational scenarios are consistent with the proposed warehouse operation.

The provided Noise Impact Assessment relates to the Cumulative Noise Impact Assessment which was endorsed via DA24/0294 and provides estimated noise levels from the master planned development of the site. The predicted noise levels from the cumulative assessment were based upon assumptions for the subject warehouse. The Noise Impact Assessment accompanying the proposal has compared predicted noise levels from the proposal to the assumptions within the cumulative assessment. This comparison has identified that no noise exceedances are identified.

It is noted that DA24/0294 requires a positive covenant to be imposed on the land (to be created via subdivision) which requires Noise Impact Assessments for development on the land to achieve noise criteria established within the cumulative Noise Impact Assessment. Should development exceed the individual lot noise contribution in the cumulative assessment then an updated cumulative Noise Impact Assessment is required to ensure the noise impacts are considered holistically across the estate.

In this regard, the proposal complies with the individual lot noise contribution identified in the endorsed cumulative assessment ensuring the proposal, and estate, achieves acceptable noise generation. Furthermore, once the positive covenant is registered on the land there will be a mechanism to ensure ongoing cumulative noise is appropriately considered.

18.4 Road Network and Site Access

The proposal includes separate entry and exit driveways and maneuvering areas for light and heavy vehicle movement to avoid conflicts. The proposal includes 36m and 40m wide hardstand areas surrounding the warehouse with a clockwise movement of heavy vehicles entering the site from the southern driveway and exiting via the northern driveway. The application has been accompanied by Swept Paths demonstrating heavy vehicles can maneuver within the hardstand and access the external road network without obstructions.

The accompanying Green Travel Plan within the Traffic Impact Assessment specifies methods to minimise private vehicle transport to the site.

As mentioned previously within this report, Sydney Metro have provided endorsement for the proposal noting potential construction vehicle conflicts on Patons Lane to the Stabling and Maintenance Facility currently under construction.

18.5 Access and Parking

Onsite car parking and bicycle parking is to be provided in accordance with Table E18.4 below.

Table E18.4. Car Parking Requirements

Activity	Parking Requirement
Freight Transport Facilities	1 per transport vehicle present at peak vehicle accumulation plus 1 per 2 employees, or to be determined by a car parking survey of a comparable facility
Industries	1 space per 200m ² of gross floor area or 1 space per 2 employees, whichever is the greater
Vehicle Body Repair Workshops/ Vehicle Repair Stations	3 spaces per 100m ² of gross floor area or 6 per work bay, whichever is the greater
Warehouses or distribution centres	1 space per 300m ² of gross floor area or 1 space per 4 employees, whichever is the greater.
Ancillary office space	1 space per 40m ² of gross floor area
Neighbourhood shops	1 space per 40m ² of gross leasable area
Accessible Parking	Accessible car spaces should be in accordance with the Access to Premises Standards, Building Code of Australia and AS2890.
Bicycle Parking	1 space per 600m ² of gross floor area of office and retail space (over 1200m ² gross floor area) 1 space per 1000m ² of gross floor area of industrial activities (over 2000m ² gross floor area)
Electric vehicle	1 space per 40 car spaces
Car share	1 space per 40 car spaces
Electric bicycle	A charging station for electric bicycles is provided for the first 5 bicycle spaces within a development, and for every 10 bicycle spaces thereafter.
Motorcycle Parking	1 space per 10 car spaces

The proposed warehouse has a floor area of 37,000m² and the ancillary office has an area of 1,500m². In this regard, the proposal requires 124 spaces for the warehouse and 38 spaces for the office component, totaling a requirement of 162 parking spaces.

The proposal includes 222 car parking spaces which achieves the DCP provisions. It is noted that recommended conditions of consent will ensure the required number of accessible parking spaces will be provided, nonetheless, the proposed plans identify 3 accessible spaces nearby

the office entrance.

Based upon the above provisions for bicycle parking a total of 40 bicycle parking spaces is required for the proposal. The required bicycle parking spaces are identified to the north of the office space and are located underneath a roof area providing weather protection.

Based upon the above provisions a total of 6 electric vehicle and 6 car share spaces is required, both of which have been identified on the plans.

The proposal provides the required electric bicycle parking stations within the nominated bicycle parking area. The required motor cycle spaces have been provided adjacent the eastern warehouse elevation within the car park.

The proposed office space includes showering and changing facilities nearby the bicycle parking locations therefore, the proposal complies with bicycle destination facility requirements. Furthermore, the bicycle parking areas are located underneath the roof and therefore are provided weather protection.

18.6 Integrated Water Cycle Management

As mentioned previously within this report, the proposed works will drain to catchment wide infrastructure in the form of a bio-retention system and associated storage basin prior to discharging into the unnamed watercourse endorsed via DA24/0294. The proposal includes an on-site detention system to control post development flows during a storm event. In this regard, the proposal will comply with water quality and quantity provisions.

18.7 Flood Prone Land

As mentioned previously within this report, DA24/0294 has assessed the flood prone nature of the site and impacts from filling works to establish the pad levels including impacts on flood safe access. This previous assessment has found the proposed works to be suitable in relation to flood planning provisions.