

SYDNEY WESTERN CITY PLANNING PANEL – COUNCIL ASSESSMENT REPORT

Application Number	DA24/0703
NSW Planning Portal Number	PAN-475021
Proposed Development	Demolition of Existing Structures, Tree Removal, Bulk Earthworks, and Construction, Fit-out and Use of Two Warehouse Buildings (in 2 Stages), with Associated Works including Driveways, Stormwater Management Works, Retaining Walls, Fencing and Signage
Property Address	No. 285 Aldington Road, Kemps Creek
Lot and DP	Lot 10 in DP 1296455
Date Lodged	Original Lodgement: 30 September 2024 Amended Development Application: 2 July 2026 (as informed by a request for amendment (dated 07/08/2026) to the Development Application having regard to the provisions of Sections 37 & 38 of the Environmental Planning and Assessment Regulations 2021)
Assessing Officer	Robert Walker
Recommendation	Deferral to allow for finalisation of concurrent Section 34 processes in the NSW Land and Environment Court. The key aspects informing the request for deferral of a determination are: - Allowance for formal lodgement of amended indigenous heritage information by the Applicant which has been reviewed in draft format by Council's expert and is considered to be suitable / supportable, but does not yet form part of the application as lodged via the Planning Portal - Preparation / finalisation of conditions of consent following resolution of the above.

THE PROPOSAL

The subject Development Application relates to No. 285 Aldington Road, Kemps Creek, along with tree removal on immediately adjacent land at 269 Aldington Road, Kemps Creek and 287 Aldington Road, Kemps Creek.

The proposed development relates to 2 warehouse / distribution centres, which is to be undertaken in 2 stages.

The Development Application is taken to involve the following as 'Stage 1':

- I. Demolition of existing structures;
- II. Clearing of existing vegetation, including tree removal on 269 Aldington Road, Kemps Creek and 287 Aldington Road, Kemps Creek;

- III. Bulk earthworks including associated retaining walls;
- IV. Stormwater management and drainage works, including an OSD basin, bio-retention raingarden system, and interim irrigation area in the position of (future) Warehouse 1;
- V. Construction, fit out and use of a warehouse ('Warehouse 2') comprising of approximately 15,439 sqm of warehouse area and approximately 985 sqm of ancillary office space;
- VI. Awnings (up to a depth of 10m) covering loading dock areas;
- VII. Driveways and associated loading/unloading and heavy vehicle manoeuvring area, including site access from Aldington Road and heavy vehicle egress to Abbotts Road;
- VIII. Associated car parking areas comprising 75 spaces;
- IX. Fencing and landscaping works; and
- X. Hours of operation 24 hours, 7 days a week.

The Development Application is taken to involve the following as 'Stage 2':

- I. Stormwater management and drainage works, including OSD tank;
- II. Construction, fit-out and use of a warehouse ('Warehouse 1'), comprising of approximately 26,910 sqm of warehouse area and approximately 1,620 sqm of ancillary office space;
- III. Awnings (up to a depth of 10m) covering loading dock areas;
- IV. Extension of driveways and associated loading/unloading and heavy vehicle manoeuvring area;
- V. Associated car parking area, comprising an additional 133 spaces;
- VI. Landscaping works;
- VII. Associated business identification type signage; and
- VIII. Hours of operation 24 hours, 7 days a week.

THE SITE AND LOCALITY

The development is proposed to be carried out at No. 285 Aldington Road, Kemps Creek, (Lot 10 in DP 1296455), along with immediately adjacent land at 269 Aldington Road, Kemps Creek and 287 Aldington Road, Kemps Creek (Site).

285 Aldington Road, Kemps Creek is an irregular shaped allotment, with an area of approximately 83,185 sqm. The Site is located on the northeastern corner of the intersection between Mamre Road and Abbotts Road and has frontage to Aldington Road via a battle-axe type handle. The Site is burdened by a 60.96m wide electricity transmission easement benefiting Transgrid (see Government Gazette 16 August 1963, Folios 2387, 2388 and 2389), which runs north / south through the centre part of the site, and currently does not contain any electrical transmission lines. The Site is also burdened by an easement for the drainage of sewage benefiting the adjoining 287 Aldington Road, Kemps Creek. The easement is located alongside the eastern boundary and is 28m x 30m in area.

The Site is identified by the 'Land Application Map' of the Western Sydney Employment Area, as being located within Precinct 12 ('Mamre Road'). The allotment is zoned 'IN1 – General Industrial' and SP2 – Infrastructure' pursuant to Chapter 2 (Western Sydney Employment Area) of State Environmental Planning Policy (Industry and Employment) 2021 (IE SEPP). The Site is flood prone land.

The broader area is undergoing significant transformation following the rezoning of land within the Mamre Road Precinct, associated with the Western Sydney Employment Area, which allows for warehousing and industrial land uses. The immediately adjoining land to the east of the Site (and to the south of the battle axe handle), 287 Aldington Road, contains a dwelling house and is used for rural residential purposes.

STATUTORY CONTROLS

The following statutory controls were identified as being of relevance to the assessment of the application:

- I. Sydney Water Act 1994, s78
- II. Environmental Planning and Assessment Act 1979 (EPA Act)
- III. Environmental Planning and Assessment Regulation 2021 (EPA Reg)
- IV. State Environmental Planning Policy (Industry and Employment) 2021 (IE SEPP)
- V. State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP)
- VI. State Environmental Planning Policy (Sustainable Buildings) 2022
- VII. State Environmental Planning Policy (Transport and Infrastructure) 2021 (TI SEPP)
- VIII. State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP)
- IX. State Environmental Planning Policy (Precincts – Western Parkland City) 2021
- X. State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP). The Proposed Development is regionally significant development in accordance with Section 2.19 and Schedule 6, as the estimated cost is \$87,120,000
- XI. Mamre Road Precinct Development Control Plan 2021 (MRP DCP).

EXHIBITION AND NOTIFICATION DETAILS

The application was advertised (through notice in a local newspaper) and notified to adjacent property Owners from 21 October 2024 until 3 November 2024, in accordance with the Penrith City Council Community Engagement Strategy & Community Participation Plan. Three (3) submissions were received in response.

In summary, the submissions raised the following issues:

- a) drainage and flooding impacts, upon downstream properties,
- b) potential dust impacts on nearby residential premises,
- c) potential noise and vibration impacts on nearby residential premises, and
- d) overall traffic impacts, having regard to both construction and operational phases.

The application was re-notified to adjacent property Owners from 23 February 2026 until 18 March 2026 in accordance with the Penrith City Council Community Engagement Strategy & Community Participation Plan. Three (3) submissions were received in response.

In summary, the submissions raised the following issues:

- a) inadequate landscaping,
- b) vehicular access arrangements,
- c) stormwater and drainage issues, including impacts on downstream properties,
- d) construction impacts, including dust, noise and vibration impacts on nearby residential premises,
- e) traffic impacts, including safety related matters, and
- f) operational impacts associated with the ongoing use of the premises, including from lighting and noise impacts.

The issues raised within the submissions received are considered to be suitably resolved as a consequence of amendments made to the application, including through the provisions of amended Plans and additional / revised information, and through the imposing of recommended Conditions of Consent.

PRE-LODGEMENT AND APPLICATION PROCESSING HISTORY

- On 30 June 2023 Development Consent was granted to Development Application No. DA23/0120, for the subdivision of 1 lot into 2 lots (which provided for the creation of the Site).
- On 25 August 2023 Modification Application No. Mod23/0185 was approved, which modified Development Consent (No. DA23/0120).
- On 15 February 2024, a pre-lodgement meeting was held with the Applicant in relation to the Proposed Development.
- On 23 February 2024 Council provided written pre-lodgement advice (PL24/0002) in relation to the proposed development.
- On 30 September 2024 Council received the subject Development Application.
- On 8 October 2024 Council referred the application to Department of Planning, Housing and Infrastructure in accordance with Section 2.25 of IE SEPP.
- On 8 October 2024 Council referred the application to Endeavour Energy and Transgrid, in accordance with s2.48 of TI SEPP, which relates to development likely to affect an electricity transmission or distribution network.
- On 8 October 2024 Council referred the application to Transport for NSW (TfNSW) in accordance with Section 2.122 of TI SEPP 'Traffic Generating Development' and Section 2.35 of IE SEPP 'Development within the Mamre Road Precinct'.
- On 8 October 2024 Council referred the application to Sydney Water for comment, in accordance with s78 of the Sydney Water Act 1994.

- On 8 October 2024 Council submitted the Application to the Sydney Western City Planning Panel as 'Regionally Significant Development', pursuant to s2.19 and Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021.
- On 29 October 2024 Council received a referral response from TfNSW stating that further information is required for TfNSW to complete an assessment.
- On 11 February 2025 and 25 February 2025, Council received correspondence from Sydney Water requesting additional information to assess the application.
- On 21 February 2025 Council provided redacted versions of the submissions received to TfNSW, as required by s50 of the Environmental Planning and Assessment Regulation 2021.
- On 10 March 2025 Council Officers attended an 'Initial Briefing' of the Sydney Western City Planning Panel.
- On 15 April 2025 Council provided a letter to the Applicant identifying issues with the Application.
- On 17 April 2025, the Applicant filed an associated Class 1 Application with the NSW Land and Environment Court (Court).
- On 23 April 2025 Council were served the Class 1 Application which had been filed with the Court.
- On 2 May 2025 Council notified the Sydney Western City Planning Panel of the Court Proceedings.
- On 30 May 2025 Council filed a Statement of Facts and Contentions with the Court.
- On 5 February 2026, the Applicant was granted leave by the Court to amend the Development Application and rely on amended plans and new material.
- On 17 February 2026, Council referred the Development Application to:
 - NSW Department of Housing, Planning and Infrastructure;
 - Transgrid;
 - Sydney Water;
 - TfNSW; and
 - Heritage NSW.
- On 23 February 2026 Council received a referral response from the Department of Planning, Housing and Infrastructure, stating that they had no objection to the proposal, as it does not appear to interfere with the future widening of Mamre Road and the future Mamre and Abbots Road intersection.
- On 26 February 2026 Council received a referral response from Transport for NSW, providing Concurrence subject to Conditions.
- On 6 March 2026 Council filled an amended Statement of Facts and Contentions with the Court.
- On 13 March 2026 Council received a referral response from Sydney Water which included recommended Conditions.
- On 19 March 2026 Council received a referral response from Heritage NSW providing General Terms of Approval.

- On 10 April 2026, a Town Planning, Urban Design and Landscaping Joint Expert Report was filed with the Court.
- On 11 May 2026 Council received a referral response from Transgrid which included recommended Conditions.
- On 18 May 2026, a Briefing to the Sydney Western City Planning Panel was made, with Council assessment Staff and representatives of the Applicant present.
- On 2 July 2026, the Applicant provided amended Architectural type drawings, amended Landscaping Plans and amended Civil Plans, (to amend the Development Application) via the Planning Portal. The material uploaded to the Planning Portal included documentation forming part of the Town Planning, Urban Design and Landscaping Joint Expert Report (which had been filed with the Court on 10 April 2026).
- On 13 July 2026, a set of Draft Conditions was provided by Council to the Applicant's Legal Representative.
- On 7 August 2026, the Applicant provided a letter confirming the amending of the Development Application with leave from the Court on 5 February 2026, and requesting reliance upon the amended Architectural type drawings, amended Landscaping Plans and amended Civil Plans which were uploaded to the Planning Portal on 2 July 2026.

SUMMARY OF DEVELOPMENT APPLICATION ASSESSMENT FINDINGS

Assessment of the Development Application as originally made pursuant to the Section 4.15 of the Environmental Planning and Assessment Act 1979, informed the filing of a Statement of Facts and Contentions dated 30 May 2025 and outlined the following issues as requiring resolution:

1. *Insufficient and inadequate vehicular access arrangements*
2. *Insufficient and inadequate management of stormwater*
3. *Insufficient and inadequate address of water quality management requirements*
4. *Insufficient and inadequate address and resolution of flooding impacts*
5. *Inadequate address of design quality requirements*
6. *Inadequate and insufficient landscaping and landscape design treatments*
7. *Inadequate and insufficient address of salinity and soil stability considerations*
8. *Inadequate and insufficient address of sustainability principles*
9. *Inadequate and insufficient address of biodiversity requirements and considerations*
10. *Inadequate and insufficient address of car parking design and manoeuvring*
11. *Inadequate and insufficient address of amenity impacts with respect to adjacent properties*
12. *Inadequate and insufficient address of aboriginal cultural heritage considerations*
13. *Inadequate and insufficient address of land contamination considerations*
14. *Unsupportable signage*

15. *Unsupportable waste management arrangements*

16. *The application is not in the public interest*

In response to the Applicant being granted leave by the Court on 5 February 2026 to amend the Development Application and rely on amended plans and new material, the following revised issues were identified as requiring resolution, as outlined within the Amended Statement of Facts and Contentions filed (with the Court) on 6 March 2026:

- I. *Inadequate response to design quality requirements*
- II. *Inadequate and insufficient landscaping and landscape design treatments*
- III. *Inadequate response to arboricultural requirements*
- IV. *Inadequate and insufficient address of Aboriginal cultural heritage considerations – consultation with Registered Aboriginal Parties*
- V. *Inadequate and insufficient address of Aboriginal cultural heritage considerations – Test Excavation*
- VI. *Inadequate and insufficient address of Aboriginal cultural heritage considerations – Impact Minimisation*
- VII. *The application is not in the public interest*

Following the filing of a Town Planning, Urban Design and Landscaping Joint Expert Report with the Court on 10 April 2026 and the provision of associated amendments to the Development Application (via the Planning Portal) on 2 July 2026, it is considered that the design quality, landscaping and arboricultural issues / contentions have been resolved, subject to Conditions of Consent.

The Applicant has requested by letter dated 7 August 2026 (which was provided via the Planning Portal) that consideration be given to the amended Architectural type drawings, amended Landscaping Plans and amended Civil Plans which were uploaded to the Planning Portal on 2 July 2026. If it is determined by the Sydney Western City Planning Panel that the amended documentation recently provided by the Applicant through the Planning Portal can be taken as an amendment to the Development Application, then the contentions outlined within the Amended Statement of Facts and Contentions can be considered to be resolved with the exception of Aboriginal cultural heritage matters.

SECTION 7.11 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – DEVELOPMENT CONTRIBUTIONS

Development Contributions apply and are to be levied as part of any such approval, pursuant to the Mamre Road Precinct Development Contributions Plan 2022.

SECTION 7.24 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – DEVELOPMENT CONTRIBUTIONS

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

Accordingly, in accordance with the Environmental Planning & Assessment (Special Infrastructure Contribution - Western Sydney Aerotropolis) Direction 2022, an associated condition will need to be imposed as part of any such approval.

ASSESSMENT CONSIDERATIONS

A summary of assessment findings having regard to the considerations contained within the Environmental Planning and Assessment Act 1979, are outlined as follows:

Assessment Matter	Compliance and / or Suitably Resolved		
	Yes	No	Comments
Section 1.3 - Objects of the Environmental Planning and Assessment Act 1979	x		
<i>Section 1.7 of Environmental Planning and Assessment Act, 1979 – Application of Part 7 of the Biodiversity Conservation Act 2016</i>	x		
<i>Section 4.13 of the Environmental Planning and Assessment Act, 1979 – Consultation and Concurrence</i>	x		All relevant consultation and concurrence processes have been undertaken, and concurrence has been received from the relevant authority where required.
<i>Section 4.15 of the Environmental Planning and Assessment Act, 1979 – Evaluation</i>			
<i>Section 4.15(1)(a)(i) – Provisions of any Environmental Planning Instrument</i>			
STATE ENVIRONMENTAL PLANNING POLICIES	YES	NO	COMMENTS
State Environmental Planning Policy (Biodiversity and Conservation) 2021	x		
State Environmental Planning Policy (Industry and Employment) 2021		X	It is considered that the proposal (as amended) is satisfactory for the purposes of State Environmental Planning Policy (Industry and Employment) 2021, with the exception of inadequate and insufficient address of Aboriginal cultural heritage considerations (such as pursuant to Section 2.42).

State Environmental Planning Policy (Planning Systems) 2021	x		
State Environmental Planning Policy (Precincts – Western Parkland City) 2021	x		
State Environmental Planning Policy (Resilience and Hazards) 2021	x		
State Environmental Planning Policy (Sustainable Buildings) 2022	x		
State Environmental Planning Policy (Transport and Infrastructure) 2021	x		
4.15(1)(a)(ii) – Provisions of a Draft Environmental Planning Instrument			
Draft SEPP – Climate Change and Natural Hazards	x		

(i) 4.15(1)(a)(iii) – Provisions of a Development Control Plan

It is considered that the proposal (as amended) suitably satisfies the relevant provision of the Mame Road Precinct Development Control Plan 2021, with the exception of inadequate and insufficient address of Aboriginal cultural heritage considerations, such as those of Part 2.6.

It is understood that outstanding Aboriginal cultural heritage matters are close to being resolved between the relevant Experts in conjunction with concurrent Section 34 processes in the Court. It is foreshadowed that such is capable of address and resolution, through the provision of final documentation and the imposing of associated Conditions of Consent.

While Council has been instructed to prepare an Assessment Report for a determination by the Sydney Western City Planning Panel, this approach is considered premature and unreasonable given the progress the concurrent Court proceedings and the circumstances explained within Council's Memorandum dated 3 August 2026. Council recommends that the Applicant be afforded the opportunity to make the necessary amendments to the Development Application that would allow for a favourable position to be made on the proposal to then inform a Section 34 Agreement.

Assessment Matter	Compliance / Suitably Resolved		
	Yes	No	Comments
4.15(1)(b) – The Significant Likely Impacts of the Development	x		Pending Aboriginal cultural heritage matters being satisfied.
4.15(1)(c) – The suitability of the site for the development	x		Pending Aboriginal cultural heritage matters being satisfied.
4.15(1)(d) Any Submissions	x		
4.15(1)(e) – The Public Interest	x		Pending Aboriginal cultural heritage matters being satisfied.

Further Referrals

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

Referral Specialist	Comments Received
Building Surveyor	No Objections – subject to conditions
Development Engineer	No Objections – subject to conditions
Traffic Engineer	No Objections – subject to conditions
Environmental – Environmental Management	No Objections – subject to conditions
Environmental – Waterways	No Objections – subject to conditions
Environmental – Biodiversity	No Objections – subject to conditions
Environmental – Tree Management	No Objections – subject to conditions
External Ingenious Heritage Consultant	Pending the finalisation of revised Aboriginal cultural heritage documentation.

The application was referred to relevant external approval bodies in accordance with Division 4.8 of the Environmental Planning and Assessment Act 1979. Referral responses received from these external approval bodies have formed part of the assessment as outlined below:

Assessment Matter	Compliance		
	Yes	No	Comments
<i>Division 4.8 of the Environmental Planning and Assessment Act, 1979 – Integrated Development</i>	x		All relevant external referrals have been undertaken. Where General Terms of Approval have been provided, they will need to form part of any such approval.

CONCLUSION AND RECOMMENDATION

At this point in time, Council is confident that a Section 34 Agreement can be reached within 2 weeks of receiving final revised Aboriginal cultural heritage documentation and confirmation of agreement from the Applicant on Draft Conditions. This includes upload / lodgement of this information to the NSW Planning Portal or as amendment to the application via filing direct with the Court.

For the reasons outlined within this Report, Council recommends that the matter be deferred to allow for the resolution of Aboriginal cultural heritage matters, and to allow for the finalisation of concurrent processes associated with the ongoing Court proceedings, in recognition that the matter is subject to Section 34 processes which are likely to result in an agreement.