



Our reference: P-376868-Y2C0
Contact: Kathryn Saunders, Principal Planner
Telephone: (02) 4732 8567

20 October 2022

Department of Planning and Environment
Attn: Pamela Morales

Email: pamela.morales@planning.nsw.gov.au

Dear Pamela Morales,

SSD-10272349 – Response to Submissions for Yiribana Logistic Estate

Thank you for providing Penrith City Council with the opportunity to comment on the Response to Submissions (**RtS**) in relation to the abovementioned State Significant Development (**SSD**) Application. Council's advice on the RtS is provided below with recommended standard engineering conditions at **Appendix A**.

1. Planning Considerations **2. (a) Local development contributions**

The Department of Planning and Environment (**DPE**) is to ensure that conditions of consent (should consent be granted) require the payment of applicable development contributions as per Council's Mamre Road Precinct Contributions Plan.

Should the applicant submit an offer to enter into a Voluntary Planning Agreement (**VPA**) with Council which includes details of how applicable development contributions are to be paid or otherwise addressed, the planning agreement shall be executed prior to the issue of the associated consent.

It is noted that a State Special Infrastructure Contribution (**SIC**) applies in relation to regional infrastructure. The related Direction requires that a person must not apply for a Construction Certificate (**CC**) or Subdivision Certificate (**SC**) unless payment has been made or that arrangements are in force with respect to the making of the contribution. Council understands this to mean that any SIC State VPA is to be executed prior to the issue of an CC or SC.

The required SIC condition as is detailed in the Direction is to be included in any consent issued.

(b) Zoning and landscaped corridor matters

Plans are notated with '*Proposed E2 Riparian Zone*'. It is unclear what this means.

'Riparian' is understood to mean land which might have biodiversity values attached to wetlands or adjacent to creeks and the like. The proposed landscaped corridor is not considered to deliver 'riparian' land. The corridor will be fenced and is severed by a road (with box culverts) at the south-



western end and is not connected to bushland or a catchment to the east. Plans for the eastern end of the corridor are not provided in the SSDA package.

DPE is to ensure that the corridor is provided with connectivity to an identified long-term catchment.

The applicant is to clarify if the statement '*Proposed E2 Riparian Zone*' relies on a re-zoning from IN1 General Industrial to C2 Environmental Conservation under SEPP (Industry and Employment) 2021 and is to fully describe the process proposed to be undertaken to achieve such.

Should the applicant be seeking a re-zoning, this aspect is to be managed by DPE. It is noted that the proposed 'riparian' zone has little protection from future development should it remain zoned IN1, and should adequate protection not be offered by way of a restriction on title and conditions of consent.

The proposed landscaped corridor appears to rely on a connection to a similar corridor (although not as deep) within Aspect Industrial Estate to the south-west.

DPE is to be satisfied that each development site retains and protects the contiguous landscaped corridor in perpetuity via conditions of consent (should consent be issued) and/or a restriction as to user on title.

Further, assuming that there is a need for the corridor to be delivered or maintained as a connected and contiguous asset (spanning from South Creek to the Dexus site) and that this relationship is integral to the function of the corridor, it is raised that this goal is poorly impacted by the lack of catchment, and the location of the north-south collector road which severs the corridor within the Yiribana Estate, and requires any land based fauna which might use the corridor, to move through a set of box culverts (2 x 2700x2100 rc box culverts) and owing to the proposed location of Estate Basin and OSD 2 at the western end of the corridor.

The design of OSD 2 is to be reviewed to ensure that it does not detract from the purpose of the corridor or prohibit the aims of the VMP.

The VMP states that its purpose includes to re-establish a vegetated riparian zone for a watercourse. It is not confirmed if (other than rain which might be directly caught from above) the corridor will have a permanent catchment.

Civil plans indicate that 'clean water' will be diverted from upstream into the corridor, however this is likely to be temporary given the proposed redevelopment of the upstream land and the extent of earthworks envisaged.

If the corridor does not have a catchment, it will be a dry channel and not 'riparian' land. No details of the catchment requirements are provided in the VMP. The VMP does not advise as to the minimum catchment needs of the corridor to achieve 'riparian' status.

The Submissions Report states that the landscaped corridor is 35m wide and the section at page 18 confirms that the corridor is to be 30m wide at the base exclusive of 2 x 5m wide landscaped setback areas each side, which are proposed to be fenced off from the central corridor. The VMP states that the corridor is 40m wide. The Revised Civil Engineering and WCM Strategy (p.33) states that the corridor will be 50m wide. DPE is to clarify what the final layout of the corridor is.

The applicant is to update their EIS with an addendum to address the current zoning of the site.

OSD and Bio Basins located within corridor

Civil plan no. SSDA432 indicates that Estate Basin 2, which is a combined OSD and bio basin is located in the corridor. DPE is to ensure that the corridor is for 'riparian' purposes and not OSD and trunk drainage.

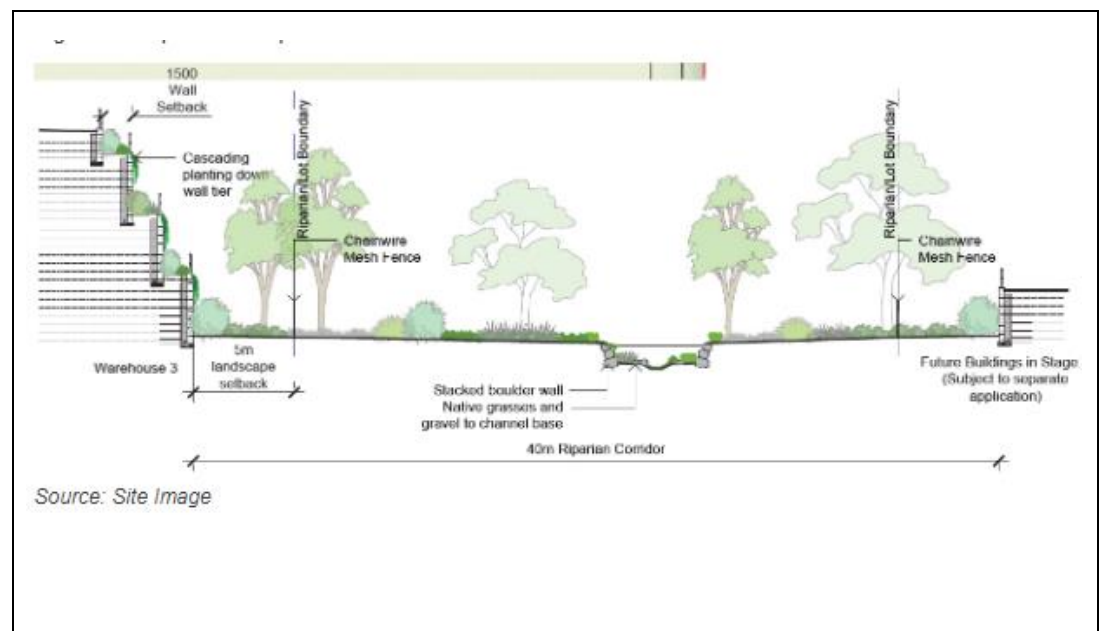
Corridor fencing

Fencing can trap and restrict wildlife from entering, moving through, or leaving the corridor.

It is recommended that the landscape setback fencing located at the bottom of the corridor is to be deleted as this poorly impacts fauna movement and serves no understood purpose, noting that fencing will also be required at the top of each side of the corridor retaining walls. All fencing shall be of open style (palisade, not chain wire/mesh) to allow free movement of fauna and to prevent reptile 'fence hanging'.

Solar access

DPE are to ensure that solar access diagrams demonstrate adequate solar access into the corridor and that soils are engineered to support plant and tree growth and are not compacted and of poor quality.



- All basins and the landscape corridor are to remain in private ownership and are to be maintained in perpetuity by the landowner. Any



subdivision of the channel is to comply with the requirements of the MRP DCP.

- Further widening of the corridor and softening of the vertical tiered retaining walls is supported.
- Details of maintenance (vehicle and pedestrian) access to the corridor are to be noted on plans so as to allow and assessment of their adequacy and environmental impact.
- Should consent be granted it is recommended that a restriction as to user be registered on the title of the land restricting development within the corridor, and that condition impose the responsibilities, management requirements, maintenance and monitoring and reporting detailed within the amended VMP.
- A condition is recommended to require evidence is to be provided to the PCA which demonstrates salvage of suitable logs and branches has been undertaken in accordance with the final VMP.
- Any consent issued shall require that the corridor be completed prior to the issue of any Occupation Certificate for the first warehouse of the estate.
- It is recommended that Phase 6 of the VMP is to be amended to include inspection and maintenance of the landscape corridor for the purpose of identifying any required tree and vegetation replacement planting, and that replanting be undertaken like-for-like – Timing - Annually for the life of the project, by the nominated Bush Regeneration Contractor.

(a) Roads, access and car parking

Pedestrian access - Pedestrian access to the office of Warehouse E3 is proposed to be from the street at the vehicle driveway cross over to the north of the office. Whilst this may be a practical and suit those who's destination is toward/from north, the pedestrian access point is not suitable for those arriving from or heading south.

Additional access is to be provided to the street directly adjacent to the office area, to the collector road.

Landscaping - Trees are to be provided within 1.5m wide (minimum) landscaped blisters within car parking areas. Car parking aisles of Warehouse E3 do not comply with this requirement.

A tree canopy plan is required to demonstrate canopy targets. The plan is to be cross-checked as to its consistency with the civil and services plans and sections to ensure that tree canopy will be sustainable to maturity and for the life of the development. Tree planting which has been utilised to calculate canopy shall not be in areas less than 2m in width, or in areas where canopy or tree establishment and protection will be impacted by operational activities at the site.



The proposal for 9% canopy planting which includes street tree planting and tree planting proposed in unsustainable locations is unsatisfactory and not supported. The response at 4.1.9 of the Submissions Report is unsatisfactory.

The landscaping of the tiered retaining walls is to be improved with ability for trees and shrubs to be planted at the base. This may require redesign, such as less tiers, with good quality planting (trees and shrubs) at the base. Landscape plans are to be elevated in design quality with better sectional detail provided.

The retaining walls at the truck entry for Warehouse 1 are to be wider apart to provide for shrubs. Trees are to be planted at the base. Climbing and hanging plants are not to be solely relied upon to screen the impact of expanses of retaining wall facing the street as these often fail. Better quality ground covers, grasses and hardy shrubs are to be provided as well.

All setbacks are to be fully compliant with the MRP DCP and are to be increased where level changes are more significant (+2-3m).

Earthworks

Proposed earthworks are significant resulting in steep and high retaining walls. Landscape street setbacks are to be increased to allow appropriate transitions between level changes. The current layout is not site responsive.

Parking - Excess car parking, beyond the requirement minimums of the MRP DCP are not supported. EV charging car parking spaces are supported.

Bicycle parking is to be design in accordance with the MRP DCP and is to be provided near the office entry, is to be covered and secured. High quality and safe end of trip facilities are to be provided.

Roads

All interim and ultimate road designs are to be accompanied with interim and ultimate landscape and retaining wall designs noting that some interim arrangements may be in place for extended periods of time, dependent on the delivery of infrastructure by others, allowing the ultimate to be delivered.

Adequate conditions of consent are to be included in any consent granted with require the owner of the land/developer to deliver all ultimate scenarios including desired ultimate landscaping outcomes.

(b) Sustainability

Roof plans note indicative solar panels. Conditions of the consent are to be included to require that the PCA confirm that solar panels (and any other ESD commitments) have been installed prior to the issue of any Occupation Certificate.

(c) Architectural design

The design of the warehouse facades (including cladding and landscaping) is to be elevated so as to deliver the expected 'world-class' outcomes for the precinct desired by the MRP DCP.

It is recommended that landscape and building setbacks are increased where level changes exceed 3m and/or two tiers of retaining wall.

(c) Basins

Council does not support basins and OSD within the front building setback and not within the front landscaping setback, particularly to Mamre Road and owing to the extensive level differences between the roadway and the carparking hard stand/warehouse level. Basins cannot be landscaped to the same effectual density as is needed and basin walls, and maintenance access roads will result in poor streetscape outcomes. The use of formal retaining walls and masonry blocks for the basin edges will be highly visible and will also present poorly to the street and will be a detracting element in the precinct (example, Basin 1 – frontage of Warehouse 5).

(d) Landscaping general

Can council have condition requiring review of landscape e plans prior to issue of CC. – Public domain elevations.

3. Development Engineering Considerations

(a) Retaining walls

All works associated with the development must be contained within the site.

Sections appear to indicate retaining walls within land to be dedicated as road Refer landscape plan 007, Section A Typical Streetscape Cross Section. Council does not support the locating of retaining walls in the road reserve for safety and maintenance reasons.

(a) Basin locations

Bio Basin 1B and Estate Basin 1 are located within the landscape setback of Mamre Road, this aspect is not supported as discussed under the Planning section above.

Access for maintenance purposes to all stormwater basins and the riparian corridor have not been provided on the plans.

The proposed riparian corridor and basins shall remain under private ownership with maintenance covenants and easements created to benefit upstream properties. Ultimately the burden of maintenance access will remain a private matter however consideration for proposed access should be undertaken at this stage of the development as the impacts of such may require further consideration particularly in relation to streetscapes and landscaping.

A copy of Council's recommended standard engineering conditions are included at **Appendix A** for reference.

4. Traffic Considerations

Council's traffic team have reviewed the RtS documentation and notes that DPE will need to be satisfied with the Level of Service (**LoS**) C and the parking rates as proposed by the applicant, noting the justification includes that the data centre use will not generate the same traffic or parking needs as a traditional warehouse or distribution centre.

5. Waterways Considerations

(a) Waterway health targets

It is noted that the approach to managing compliance with the waterway health water quality targets included in the Mamre Precinct Road DCP (MRP DCP) will be to stage the development of the site in order to comply with the waterway health targets, and that future development of some lots will be subject to future DAs, Council recommends that DPE is to be satisfied that the waterway health targets are achieved for this stage and (any future stages).

The Department is to be satisfied that the design of the development has had regard an ultimate Regional Stormwater solution. Interim and ultimate details/designs/plans are to be provided to DPE's satisfaction.

Council does not support the current design and configuration of the stormwater management basins. Greater detail on the design and configuration of the stormwater management basins is necessary. Further detail is required in relation to the inlet design and flow configuration and provision for access for maintenance. There are many technical design guidelines available to assist a revised design, including on the Council's website which includes specifications for the design of bioretention systems.

(b) Riparian Corridors and Retaining Walls

With respect to the riparian corridors, the proposed configuration including the proposed retaining walls does not appear to be consistent with the intent of the MRDCP. It's suggested the design of the riparian corridor should be reconsidered to ensure it meets the objectives of Sections 2.3 and 2.4 (e.g., Figure 3) of the MRP DCP. Further reference is made to Control 17 in (Section 2.4 if the MRPDGP) which states *High vertical walls and steep batters shall be avoided. Batters shall be vegetated with a maximum batter slope 1V:4H. Where unavoidable, retaining walls shall not exceed 2.0m in cumulative height.*

(c) Asset management

Council recommends that prior to consent being granted:

- Adequate conditions need to be applied to the development to ensure that future stages are not able to be approved until such time a regional approach is available and the adequate arrangements are entered into, or updated information is provided to demonstrate that the treatment of stormwater and management of stormwater in the context of the waterway health targets can be managed on site.
- Conditions be applied to ensure that the stormwater infrastructure is maintained in perpetuity by the landowner (Council will not accept dedication of these assets).
- The stormwater treatment basins associated gross pollutant traps and riparian corridors are to be maintained in private ownership.

6. Landscape Considerations

(a) General landscape matters

Council advises that overall, the revised changes do not result in a quality landscape with good visual amenity.

All proposed canopy planting is individual trees where canopies do not touch. This is contrary to Council's previous advice. The use of medium and tall shrubs to screen retaining walls will improve visual amenity outcomes and it is requested that landscape plans be amended to introduce these.

- The Proposed fencing types are not documented or located on plans.
- There remains a lack of informative landscape documentation to fully assess the plans e.g., levels, sections, dimensions, design statement supporting design constraints and design decisions, connection to country. Precedent images still do not entirely align with the proposed design.
- Retaining walls are not suitably designed to allow for effective soil conditions and space for planting to perform screening function (of walls or nearby built forms)
- If visual amenity of the freight line corridor is required, it appears to not be provided by the design nor landscape treatments. For consistency and coordination between development sites adjoining, fronting, or backing onto the corridor, a holistic set of guidelines and landscape design concept should be developed.

(b) Species

- i. The applicant is proposing some species that will not perform in Western Sydney and these should be substituted with alternative appropriate species e.g. *Angophora costata* and *Ceratopetalum apetalum* (both are sandstone associations species).
- ii. Plant schedules represent an increase in diversity of species which is supported, however the design does not result in good planting diversity e.g. the front setback trees along the boundary are one species being *Waterhousia floribunda*).
- iii. There is excessive use of *Viola hederaceae* as a groundcover. This ground cover is not suited to exposed situations and will not perform. The spacing is inappropriate and a taller shrub is a recommended substitute.

(c) Masterplan and streetscape

- Plans have not been amended so larger trees are in front setbacks and medium sized trees are in verges. There is lack of diversity of street tree and front boundary species.
- Plans have not been revised to replace shrubs and groundcover plantings with turf on verges

- There is no detailed design for streets. It is not clear whether street trees are proposed to be planted on all roads to be delivered (Stage 1)

(d) Mamre Road frontage

- There is no landscape detailed design for the frontage and concerns Council has regarding poor visual amenity of walls and facades cannot be assessed.
- The purpose of the swale outside the boundary is unclear (refer civil drawings).

(e) Riparian corridor and bio basins

- There is no detailed documentation for these areas.
- It is not clear why there is a lack of canopy around the edges of biobasins.
- There is a section of the riparian corridor that is a long term retention storage area (civil plans) and species selected should reflect the inundation.
- The design should include a more diverse mix of species as per the VMP list of recommended species, including Casuarina and Melaleucas and climbers for retaining walls
- Recommendations of the VMP are that trees are planted 1/10m² in the riparian corridor, however trees are sporadically located. This may be a blue infrastructure requirement
- Details relating to soil profiles, maintenance tracks, emergency pedestrian routes and temporary access road listed in Council's letter do not appear to have been addressed.

(f) Warehouse 1

- Gravels in the front setback have been removed, except for one area. There remains large, turfed areas. A condition is recommended to ensure turfed areas are not used for overflow parking or storage.
- Trees in the carpark have not been changed for an increase in canopy nor appropriate planting methods to support larger trees.
- Plans still show verges without turf. Refer to general comment.

(g) Warehouse 3 landscape matters

- Despite underground services, there is further opportunity for planting in lieu of turf in front of the northern façade.
- Large trees are proposed too close to the building in the carpark. Larger trees should be within the carpark to maximise shade and cooling

7. Biodiversity Considerations

- The shadow diagram do not confirm what time of year the shadow diagrams have been prepared for.

- Since Council last advice was issued, the Cumberland Plain Conservation Plan (CPCP) has been adopted, and the entire site is identified as being 'certified-urban capable'. Therefore, previous comments in relation to the changes required for the Biodiversity Development Assessment Report are likely no longer required.

DPE is to determine information provided is satisfactory having regard to the applicable legislation and the date of lodgment – and any applicable saving provisions. The documentation should address Part 13.5 of the *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

- In respect to the Landscape Plans it is recommended that *Angophora costata* is removed and replaced with an alternative species.
- It is recommended that the protocols recommended in Section 5 of the Vegetation Management Plan should form part of the conditions of consent (should consent be granted) as well as the implementation of the VMP itself.

Should you require any further information regarding the comments, please contact me on (02) 4732 8567.

Regards,



Kathryn Saunders
Principal Planner

Appendix A – Council standard Engineering Conditions

- An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate or Subdivision Works Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges. An application form together with an information sheet and conditions are available on Council's website. Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.
- Prior to the issue of any Construction Certificate or Subdivision Works Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:
 - a) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage).
 - b) Road occupancy or road closures.
 - c) The placement of hoardings, structures, containers, waster skips, signs etc. in the road reserve.
 - d) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines, and best engineering practice. Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

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

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

- Prior to the issue of any Subdivision Certificate, an application for proposed street names must be lodged with and approved by Penrith City Council and the signs erected on-site.

The proposed names must be in accordance with Penrith City Council's Street Naming Policy.



Notes: Contact Penrith City Council's Development Engineering Department on 4732 7777 for advice regarding the application process and applicable fees. Allow eight (8) weeks for notification, advertising and approval.

- Prior to the issue of any Subdivision Certificate, the following compliance documentation shall be submitted to the Principal Certifier. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifier:
 - a) Works As Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Subdivision Works Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.
 - b) The WAE drawings shall clearly indicate the 1% Annual Exceedance Probability flood lines (local and mainstream flooding).
 - c) The WAE drawings shall be accompanied by plans indicating the depth of cut / fill for the entire development site. The survey information is required to show surface levels and site contours at 0.5m intervals. All levels are to be shown to AHD.
 - d) CCTV footage in DVD format to Penrith City Council's requirements and a report in "SEWRAT" format for all drainage as identified as Council's future assets. Any damage that is identified is to be rectified in consultation with Penrith City Council.
 - e) A copy of all documentation, reports and manuals required by Section 2.6 of Penrith City Council's WSUD Technical Guidelines for handover of stormwater management facilities to Penrith City Council.
 - f) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.
 - g) Documentation for all road pavement materials used demonstrating compliance with Penrith City Council's Engineering Construction Specification for Civil Works.
 - h) A Geotechnical Report certifying that all earthworks and road formation have been completed in accordance with AS3798 and Penrith City Council's Design Guidelines and Construction specifications. The report shall include:
 - Compaction reports for road pavement construction
 - Compaction reports for bulk earthworks and lot regarding.
 - Soil classification for all residential lots
 - Statement of Compliance.



i) Structural Engineer's construction certification of all structures

- The stormwater management systems including the estate drainage basins and riparian corridor, shall continue to be operated and maintained by the proponent 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.