

Our reference: P-631189-Y9K9
Contact: Sandra Fagan
Telephone: (02) 4732 7992

20 February 2024

Attn: David Schwebel

Email: david.schwebel@planning.nsw.gov.au

Dear David Schwebel,

**Council Response to Environmental Impact Statement – SSD-32722834
Warehouse and Distribution Centre at Dexu Site, 113 – 153 Aldington
Road, Kemps Creek, NSW, 2178**

Thank you for providing Penrith City Council with the opportunity to comment on the abovementioned Environmental Impact Statement (EIS).

Council has reviewed the information referred for comment and provides the following advice for the Department's consideration in relation to this matter.

1. Planning Considerations

- a) The EIS makes statements relating to the upgrade of Aldington and Abbotts Roads, including that road upgrade works are not part of the proposed development, and will be carried out by both LOG-E and LOG-N proponents. Such road upgrades and road works will require Part 4 development consent through either a Development Application or a State Significant Development Application. This is discussed further below.
- b) If road works are to be included in the current SSD Application, the Proponent must liaise with Council's Asset Management Team to obtain landowners' consent from Council as the landowner of the local roads to lodge the required application (either a SSDA or DA). Alternatively, DPHI should be satisfied that the required road upgrades are included in another suitable SSD application.
- c) DPHI should also consider if the current road infrastructure is suitable to support and service the proposed development, both in the interim and long-term scenarios. It is apparent that the

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existing road infrastructure in its current form is unsuitable to accommodate the proposed development. In addition, the Mamre Road Precinct DCP does not allow direct vehicle access from Aldington Road, which is a Distributor Industrial Road.

- d) DPHI should consider the timing of the required road upgrades to enable the proposed development to only proceed at the appropriate time/s, as well as mechanisms to ensure that the proposed temporary site access from Aldington Road (if supported) is then decommissioned at the relevant time and replaced with landscaping. DPHI should also consider the requirement for a Planning Agreement for any proposed dedication of land to Council for road widening and road works.
- e) DPHI should consider if the front setbacks to Aldington Road are appropriate and whether suitable landscaping can be accommodated within the front setback. This should consider the transmission easement and accompanying restriction to the height and type of vegetation that can be accommodated within the easement. In the same manner, DPHI should consider the type of landscaping that can occur around the stormwater detention basin, given that the basin is proposed within the front setback and will already sit lower than the surrounding land by virtue of its function as a basin.
- f) The proposed landscaping and width of the front setback adjoining warehouses 1 and 5 should be reconciled with the current discussions relating to the road widening and upgrade works for Aldington Road, to ensure that the front setback is at least 12m wide and can accommodate landscaping that contextually fits with the proposed road works, and serves to help screen the proposed pad levels and retaining walls (specifically of warehouse 1 from the eastern front elevation). In this regard, it is questioned as to whether the location of the proposed basin, within the front setback to Aldington Road, is appropriate given the required lower level of the basin, the restriction to vegetation height and growth, and the need for extensive retaining walls.
- g) The proposed development includes extensive cut and fill and a heavy reliance on retaining walls. It is unclear how this achieves the objectives in the MRP DCP relating to land on ridgelines and highpoints (clause 3.2) and responding to the natural topography

of the site, using tiered retaining walls, and using split level design (clause 4.4.1).

- h) DPHI should consider how the proposed civil works on the two adjoining (Frasers) sites will relate to the future development of the neighbouring land, particularly given that the proposed civil works are for the purpose of retaining walls at the property boundaries, which will then set site levels relative to the adjoining lands. The EIS states that these civil works have been coordinated with the adjoining landowner (Frasers) and that construction works at the adjoining sites is subject to a separate development application process. DPHI should consider whether it is appropriate to endorse works that set site levels on adjoining sites.
- i) In addition, DPHI should consider the need to manage level differences between the subject site and the two adjoining sites, with appropriate tiered retaining walls and edge landscaping. In this regard, the proposed level difference between the subject site and the Frasers South site is extensive (both in length and height) with a sheer (not tiered) retaining wall approximately 11.5 metres high (in part). DPHI should consider how this meets the objectives and controls at clause 3.2 of the MRP DCP that relate to views and visual impacts. Clause 3.2(1) states that the *“design of subdivisions and building orientation should respond to the significant landscape elements and view corridors identified in Figure 11”*, and that *“The design of lots adjoining Mamre Road, Southern Link Road, and Aldington/Abbotts Road shall promote a high-quality landscape character”*. Figure 11 identifies a view corridor that runs in an east-west direction, through the northern portion of the site.
- j) DPHI should ensure that the relevant landowners’ consent has been obtained and maintained for the proposed development as it relates to the works proposed on the adjoining sites to the north and south. The description of ‘subject site’ should include the affected adjoining properties. In addition, and given the proposed staging of the development, DPHI should consider if conditions are required to ensure that the relevant landowners’ consent is maintained prior to those works occurring on the adjoining sites. This is to potentially avoid the scenario where the landowner changes prior to the time those works are to be carried out or if the adjoining landowner withdraws their consent or alters their design.

- k) The extensive use of undercroft car parking as a design solution will negatively impact opportunities for better landscaping within the car parking hardstand areas, such as providing canopy trees. Canopy trees in hardstand parking areas can be successfully used to moderate bulk, scale, and visual appearance of buildings. However, this cannot be done in this instance given the extensive use of undercroft parking for every warehouse. In addition, the architectural drawings do not show the future vehicle driveways that are likely to be sought for access to the individual parking areas of each warehouse, as well as likely signage requirements. These details, when included, will further reduce the amount of landscaping and canopy cover within the front setbacks and car parking areas.
- l) DPHI should consider how the drainage channel in the north-west corner of the site will operate when that portion of the site is required for the connecting access road to the future freight road (the Dedicated Freight Network corridor) as shown on Figure 17 of the Mamre Road Precinct DCP. The drainage channel is designed with tree planting on the adjoining batters and a retaining wall at both the northern and southern ends of the channel. It is unclear how the channel, landscaping, and retaining walls will be reconciled with the future road connection.
- m) DPHI should consider and ensure that the proposed buildings remain within the 20m height limit, including any roof mounted mechanical plant.
- n) DPHI should ensure that the stormwater detention basin/s serving the site remain in private ownership.
- o) It is questionable why the proposal provides more car parking spaces than required by the DCP. The additional parking spaces beyond the required amount should be calculated as gross floor area or consideration given to converting the excess spaces to additional landscaping.
- p) The proposed warehouses have long and large expanses of facade walls. Although there is some articulation proposed (see northern elevation for warehouse 1) DPHI should consider whether further architectural mechanisms for breaking up and relieving the wall expanses could be utilised.

2. City Planning Considerations

Council's City Planning Team have reviewed the proposal and have raised the following considerations:

- a) The proposed SSD relies on others (LOG-E consortium) to deliver road works and batters on the Dexus site. However, no application is currently before Council or DPHI for these works. Noting also that these works require Council's owner's consent as the road authority. No approval should be provided for the works, subject to this SSD, until such time as the road upgrade works and supporting batters on the Dexus site is approved.
- b) Any works on Aldington Road will require Council's consent as the landowner of the road.
- c) The EIS states that the proposed development is supported by the northern access proposal for road upgrades proposed by LOG-N and will do upgrade works to Aldington Road to connect into the LOG-E proposed works. Approval for these works will need to be obtained through a part 4 approval through Council, or through an SSD (with Council's landowners consent obtained). Council is unlikely to support a part 5 planning approval pathway.
- d) Connection of local industrial roads between different lots/landowners needs to be carefully considered and managed. It is requested that DPHI ensure that where ultimate connection can be made, that Dexus do so and is protected by Conditions of Consent, and that Dexus obtain necessary adjoining landowners consent to complete any connection works. If an interim arrangement is proposed (i.e. a temporary turning head) that these are protected by right of way easements (or other suitable mechanism) to ensure connections can occur by adjoining landowners in future (when adjoining lots develop).

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3. Development Engineering Considerations

Council's Development Engineering Department have reviewed the proposal and have raised the following considerations:

- a) Flooding:

- Parts of the site are flood affected based on overland flow overview study (2006) on the PMF event. The flood impact risk assessment by Costin Roe Consulting has been submitted in support of the proposal which provides information on the impact of the proposed development on the flood behaviour. The report indicates that the proposal complies with requirements of the Mamre Road DCP and NSW Floodplain Development Manual.

b) Road and Traffic:

- The DCP identifies Road No. 2 as a Local Industrial Road. The proposed Road 1 and Road 2 are shown to be future public local industrial roads. A typical section for Road 1 shall be provided. Assuming Road 1 and Road 2 are both Local Industrial Roads, the notation shall be amended (Dwg. No.: C1010). The kerbside lanes shall be a no parking lane as per the MRP DCP.
- The proposed temporary construction access off Aldington Road shall take consideration the ultimate road design upgrade of Aldington Road.
- The proposed temporary access is from Council's road reserve which will require land owners consent from Council and the appropriate Section 138 application. DPHI should include suitable consent conditions to address the relevant approvals required for the works to public roads and road widening.
- The proposed access roads shall be designed to facilitate future development on neighbouring properties.
- Car parking areas as well as pedestrian and vehicular accesses to all car parking areas shall be separated from heavy vehicle access and heavy vehicle manoeuvring areas. This is for safety reasons and should be clearly shown on the plans.
- Satisfactory turn paths have been provided for the temporary turning heads on Road 2. However, turn paths for the intersection at proposed Road 1 and Road 2 are missing. The road network is to be designed for 30m Performance Based Standards (PBS) Level 2 Type B vehicles and tested for a 36.5m PBS Level 3 Type A vehicles and turn paths must be submitted

for the proposed Road 1 and Road 2 intersection. Turn paths shall be provided for the proposed temporary access at the Aldington Road.

- Swept paths shall be provided for the largest vehicle that will access the site (e.g. 30m PBS Level 2 Type B or 36.5m PBS Level 3 Type A vehicles).
- Access, parking, manoeuvring, and loading facilities shall be in accordance with AS 2890 and Performance Based Standards, An introduction for road managers (National Heavy Vehicle Register, May 2019) to accommodate vehicle types outlined in Table 12 of the DCP.

c) Stormwater:

- The design of the stormwater basins along Aldington Road shall consider the ultimate road design upgrade of Aldington Road.
- Penrith City Council will not accept the dedication of any estate water quantity or water quality basins. Any estate drainage basins are to be maintained in perpetuity by the estate. It is Council's preference that all water quantity and water quality treatment be provided on the individual lots. Any on-site detention system or water quality system must be within common property and accessible from the street.
- The emergency overflow from any stormwater basin shall be designed to ensure safe velocity depth products are achieved for any overflows within any public domain areas including the road network (existing and proposed future).
- Stormwater drainage is proposed across Aldington Road. Land owner's consent will be required as well as a Section 138 Roads Acts approval from Council (dwg. No.: C1032).

d) Earthworks:

- Retaining walls up to 13.4m in height are proposed. These walls are also up to the road reserve on the southern boundary of the site, at the end of Road 2 without any offset (Dwg. No.: C1033). This should be batters with retaining walls at required offsets.

- The toe (fill retaining wall) or top (cut retaining wall) of all retaining walls are to be setback 2.0m into the property boundary and the setback is to be suitably landscaped. Plans shall demonstrate that earthworks and retaining walls comply with the objectives and controls of the MRP DCP Section 4.4 Earthworks and Retaining Walls.

e) Transmission Line Easement:

- Any works proposed within the transmission line easement will require written concurrence from the beneficiary of the easement.

4. Traffic Considerations

Council's Traffic Engineers have reviewed the proposal and have raised the following considerations:

- a) As per the MRP DCP, access is required to be provided via lower order roads as far as practicable. Aldington Road is classified as a Distributor Industrial Road and interim access to the proposed development is proposed temporarily via a priority-controlled intersection with Aldington Road. Until such time as the local industrial road is connected to the wider road network, this temporary access will be in place. Temporary access from Aldington Road will require Council's consent.
- b) The applicant has advised that in mid-2023, it was agreed with Transport for NSW that the proposed construction of part of the Southern Link Road (SLR), as well as required southern connections to link up the development sites, was feasible from a traffic perspective. This has enabled the three landowners (Aliro, Dexu and Gipp Group) to proceed with the lodgement of their respective SSD applications for warehousing and distribution facilities. This will involve preparation of a State Voluntary Planning Agreement for the construction of the permanent sections of the SLR, which is a Special Infrastructure Contribution (SIC) Road. The non-permanent or interim sections of connecting road are to be partially funded and progressively delivered by the three landowners over a period which matches the staging of development of the sites. It is understood that this arrangement is still in negotiation stage with the proponent.

- c) In conclusion, there are outstanding matters that need to be resolved relating to the road network connectivity and infrastructure. Therefore, DPHI should be satisfied that those matters are resolved prior to determining the SSD application at this stage.

5. Environmental Health Considerations

Council's Environmental Health Department have reviewed the proposal and have raised the following considerations:

a) Waterways Considerations

- i. The development includes the provision of temporary stormwater management basins and associated infrastructure. It is indicated that ultimately the site will connect to Sydney Water's drainage network. Interim arrangements are proposed although it is noted that additional information is required to demonstrate compliance with the requirements outlined in the MRP DCP.
- ii. DPHI should ensure that the controls are met in terms of compliance with the stormwater and waterway health targets (for both the construction and operational stages). DPHI should ensure that the MUSIC modelling and design of stormwater temporary infrastructure has been prepared in accordance with the Technical guidance for achieving Wianamatta South Creek stormwater management targets. This is likely to require additional information prior to determination.
- iii. Regarding the GPTs, while the plans indicate locations, additional details (such as, access arrangements and type) are required on the engineering plans. All GPTs (including all pit inserts) should be included on the plans. Further, the GPTs need to be prepared as per the specifications outlined in Sydney Water Technical Design Guidelines. It is noted that the GPT's will be the responsibility of the developer / property owners to maintain. Conditions will need to be included requiring this.
- iv. It is recommended that additional details of the stormwater infrastructure are required. Functional design drawings of

the temporary ponds, filter chambers, temporary irrigation systems and associated infrastructure should be provided. The plans should include additional details to demonstrate they can function and include details of levels, cross sections, access arrangements, and the like.

- v. This should include full details for a functional design and include an operation and maintenance manual/s for the infrastructure. The maintenance manual should be provided prior to the determination of the development and conditions should be applied to ensure interim (and permanent) measures are maintained to the required standards.
- vi. Rainwater tanks are proposed as interim measures until the delivery of the regional stormwater management scheme. Conditions are also required to ensure they are designed to meet a minimum of 80% non-potable demand and that they are decommissioned once connection to the regional scheme is available.
- vii. Passively irrigated street trees should be incorporated into the design of the streets. It is acknowledged this detail can be considered as part of detailed designs. However, a condition should be applied to ensure that prior to completing detailed design the plans must be submitted to Council for review and approval (in the case the roads will be dedicated). It is understood that they have some reliance in the scheme.
- viii. Should the application be approved, adequate conditions will need to be in place to ensure that all temporary infrastructure is maintained until the regional infrastructure is available. The conditions should ensure that future development on the site achieves compliance with the Integrated Water Cycle Management (IWCM) controls in the MRP DCP in accordance with the Technical Guidance for achieving Wianamatta South Creek Stormwater Management Targets (NSW Government, 2022).
- ix. Conditions need to be applied to ensure that adequate land is reserved for initial stages of the development's treatment

and management of stormwater (irrigation of undeveloped land).

- x. Should the application be approved conditions should also be applied to ensure that all stormwater infrastructure, including GPTs, rainwater tanks, irrigation systems temporary ponds remain under the ownership, control, and care of the registered proprietor of the lots. It is suggested that positive covenants and restrictions of use should be placed to ensure that all privately owned systems will be maintained in perpetuity. It is also acknowledged some infrastructure will not be required once the regional scheme is available. Conditions may need to be included to manage the transition and decommissioning of the infrastructure once connection to the regional infrastructure is available.
- xi. With respect to controlled activities and waterways, it is noted that a mapped waterway is located on the site. There is some discussion in the ecological report about the status of the waterway. Any works will need to be undertaken in accordance with Water Management Act and the Department of Climate Change, Energy, the Environment and Water (NRAR) requirements.
- xii. High efficiency sediment basins are required to meet the construction phase IWCM controls in the MRP DCP. It is noted that reference to high efficiency sediment basins on the plans and supporting report is provided. Conditions will need to be included to require high efficiency sediment basins to be used during the construction stages of the development, and that they are designed and audited by a CPESC as per the Technical guidance for achieving Wianamatta South Creek stormwater management targets.

b) Biodiversity Considerations

- i. The Ecological Assessment does not address the likelihood of threatened flora or fauna listed under the EPBC Act that may be impacted by the proposed development. The report does not provide a list of potential species or enough evidence that targeted surveys have been undertaken

across the site in recommended survey periods for that species.

- ii. The Ecological Assessment Report does not address Chapter 13 of the Biodiversity Conservation SEPP 2021 which contains controls relating to development on land on the CPCP, namely how the development has been designed to incorporate the mitigation guidelines.
- iii. In respect to responding to the mitigation measures in the Cumberland Plain Conservation Plan, the development has not been designed to try and retain large trees and incorporate them into the development to demonstrate that this mitigation measure has been incorporated. The CPCP mitigation measures asks to *'retain large trees (including dead trees but excluding noxious weeds) ($\geq 50\text{cm DBH}$) during precinct planning where possible and avoid impacts to soil within the dripline of these trees during construction.'*
- iv. As per the objectives of the MRP DCP under Section 4.2.2 Building Setbacks and Section 4.2.3 Landscaping (Point 1 and 5) the development should be designed to retain existing trees where possible. Retaining existing trees can assist with achieving required canopy targets and can reduce costs in landscaping and maintenance of planting more trees. The development could be designed to try and retain the existing trees which could form part of the landscaping of the site.
- v. Should the application be approved conditions should be applied to ensure the removal of trees is undertaken under the supervision of a qualified and experience Ecologist.
- vi. The Dam Dewatering Plan is to be updated or a separate plan prepared by a qualified and experience aquatic Ecologist, which outlines the procedure for salvaging aquatic fauna during the dam dewatering process and locations for fauna to be relocated to.

6. Landscape Considerations

Council's Landscape Team have reviewed the proposal and have raised the following considerations:

- a) The warehouses 1 and 2 carparking areas should have tree planting to provide shade and amenity as per the MRP DCP requirements.
- b) The street tree species for all roads, including Aldington Road, should be in accordance with Penrith City Council's street tree masterplan for the Mamre Precinct (provided to the Department in late 2023). Generally, for enhanced streetscapes, street trees are supplemented with larger tree species planted in front setbacks.

Should you wish to discuss this matter further, please do not hesitate to contact me on (02) 4732 7992.

Yours sincerely,



Sandra Fagan
Principal Planner