

Our reference: P-903733-NIN2
Contact: Sandra Fagan
Telephone: (02) 4732 7992

7 May 2025

Attn: Media Hakim
Email: media.hakim@dpie.nsw.gov.au

Dear Media Hakim,

Council Advice on Response to Submissions – SSD-30871587 – Proposed Warehouse and Distribution Centre at 805-817 Mamre Road, Kemps Creek, NSW, 2178

Thank you for providing Penrith City Council with the opportunity to comment on the abovementioned Response to Submissions (RTS).

Council has reviewed the information referred for comment on 24 April 2025 and provides the following advice for the Department's consideration.

1. Development Assessment Considerations

- a) The Department is requested to holistically consider the comments expressed in Council's previous correspondence dated 11 December 2023, and the further comments below.
- b) The positive amendments made to the proposed development are acknowledged. This includes the relocation of the wetland/basin outside of the REI zoned land, and the changes to levels and reduced reliance on retaining walls.
- c) It is understood that the applicant has been liaising with Council's City Planning Team regarding the Open Space Edge Road (OSER). Please refer to the City Planning comments below in relation to this.
- d) The Submissions Report states that the previous level changes between the OSER and Warehouse 2 have been addressed by earthworks to raise the ground level to match the FFL of 38.5 for warehouse 2. The proponent is to reconcile the level changes with any stormwater flow impacts, as well as interface with the adjoining REI

Penrith City Council
PO Box 60, Penrith
NSW 2751 Australia
T 4732 7777
F 4732 7958
penrith.city

land. Warehouse 2 appears to turn its back to the adjoining OSER and the open space beyond, and the landscaping along the western building alignment appears narrow as a road interface, particularly where the levels change in the south-western corner.

- e) It is understood that the proposed wetland has been relocated to align with Sydney Water's ultimate design for Basin 7. The relocation of the wetland outside of the REI zoned land is supported on planning and zoning grounds. Sydney Water will need to provide comments regarding the proposed basin. You can also discuss any Letter of Offer relating to the REI land with Council's City Planning Team.
- f) The Submissions Report states that tree planting along the southern and northern boundaries is now removed and replaced with tall shrubs. Tree planting along property boundaries, to provide long-term screening and shade, is important. The Department should consider whether the justification provided by the proponent for not having tree planting at the property boundaries is acceptable. It also appears that there are portions of the northern property boundary that do not have room for any planting given the fire access track. The Mamre Road Precinct DCP requires suitable tree planting along northern elevations of buildings to provide shadow and cool the building. The spatial planning for Warehouse 2 does not allow for this, and this has further implications for urban heat as well as lack of screening to large warehouse facades.
- g) Notwithstanding the comments in the Submissions Report, the proposed offices for the two warehouses still do not appear to be an integral part of the main building. Instead, the offices sit mostly proud of the warehouse footprints and are visually more connected to the loading dock area, particularly at office roof and dock awning areas.
- h) If the development is to be supported, the Department should include conditions to ensure that the tree species selected for the future public road verges (including the Open Space Edge Road) are in accordance with Council's Draft Street Tree Masterplan.
- i) The submitted land dedication plans refer to the ENZ and Basin 7 lands being a land dedication type. The acquisition map in the SEPP (Industry and Employment) only show REI zoned local open space land as land to be acquired by Council. In addition, the SEPP (Western Parkland City) does not show Council as the acquisition authority for the ENZ zoned land. The proponent is to clearly show the intention for

dedication of the various areas, and ensure that Council is only nominated for land in accordance with the relevant SEPP acquisition map/s.

2. City Planning Considerations

- a) The land dedication plan differs from the last version which was consulted with Council's City Planning department. Council have not been consulted about the dedication plan / Open Space Edge Road (OSER) as per the plans lodged with this RTS. In the previous versions reviewed by the City Planning team, the OSER encroached onto REI zoned land in small sections and only where it was unavoidable. However, in the updated version, the proponent has shifted the alignment of the OSER so it would encroach onto REI zoned land by 4m consistently along the site. This would require the entire road corridor to be shifted, which would not be possible in certain sections due to the location of Sydney Water's basins. The plans should be amended to show that the full extent of the OSER is located primarily on IN1 zoned land consistent with the last dedication plan sent to Council on 20 February 2025.
- b) The western elevation of warehouse 2 currently represents a poor address to adjoining public spaces, that could result in undue safety and security risks. The plans should be amended to address and provide passive and active surveillance opportunities from the western elevation of warehouse 2 over the adjoining public spaces (OSER and REI land).
- c) In Drawing SSDA-39 of the architectural package, it appears that the wrong road carriageway size identified, with the correct width being 19.5m. This appears to be a drafting mistake as the individual dimensions are correct.
- d) Council acknowledges that a draft letter of offer to enter into a VPA has been lodged recently in relation to this SSD/site. The offer is currently being assessed by Council staff. Any offer should be accepted by Council before the SSD is determined. If/Once the offer is accepted, Council staff can inform the Department, and suitable conditions can be used if the SSD recommendation is favourable. Any such condition/s can require the applicant to enter into a planning agreement in accordance with the accepted letter of offer.

- e) It is unclear if the REI land is to be dedicated to Council as part of this SSD. Please update the proposal to clarify.
- f) As per the Submissions report it is proposed that the OSER edge road remain in private ownership until it can connect to adjoining properties. The OSER is to be a public road, Council is not supportive of this road being private. The applicant shall provide clarification as to when and how this road will be dedicated to Council as a public road.
- g) The subdivision plan shall be updated to note that the collector road, is to be dedicated to Council as public road.
- h) If/when the application is approved, a condition of consent shall be applied to state that the collector road is to be dedicated to Council free of cost.
- i) The NDA plan requires amendment to determine the total NDA for the subject site and improve ease of readability. Please amend the NDA plan to address the following;
 - i. The NDA plan should reflect the current zoning of the site in respect to inclusions/exclusions to NDA,
 - ii. Please include the total site area in the legend,
 - iii. Include in the legend total NDA and total NDA exclusions. Ideally the NDA Plan should only contain 2 colours or hatched areas being those that distinguish between NDA and NDA exclusions. The exclusions should also be identified in the legend with their respective areas (i.e. Mamre Road widening XXm2, collector road XXm2, etc),
 - iv. Please include the lineal meters and area of the collector road to be delivered,
 - v. Please amend the plan to include pt lots 3.2, 2.3 in total NDA calculations. It is unclear why these are excluded from NDA given these areas are zoned IN1. It is noted that Sydney Water easements/infrastructure are not considered an NDA exclusion per Council's Contribution Plan,
 - vi. Consider removal of some lots/part lots to improve ease of readability. It is unclear of the value add (on the NDA plan) of pt lots 7-7,7-3,7-1,2-3,3-2 and the split between pt lot 4-3 and 8.

3. Development & Flooding Engineering Considerations

- a) The proposal includes the delivery of a Collector Industrial Road accessed from a temporary Access Road from Mamre Road until such time the adjoining land(s) are developed to provide the ultimate connection to Mamre Road. Council is not in favour of having the Collector Industrial Road dedicated as a public road whilst its only access is through a private road. Whilst it is appreciated that the temporary Access Road will have Right Of Way (ROW) easement to benefit Council allowing public access, however as the Collector Road will be used solely to service this development until such time the ultimate north / south extensions are completed through the neighbouring properties, it should ideally remain in private ownership with an ROW easement.
- b) A condition should be used requiring the applicant to provide all documents required by Council's specifications for the purpose of dedicating the Collector Industrial Road to be submitted upon dedication of the road.
- c) A condition should be used requiring the applicant to provide a maintenance bond prior to the dedication of the Collector Industrial Road.

4. Traffic Considerations

- a) The temporary LILO (left-in / left-out) access requires approval from Transport for NSW.
- b) The long section of the collector industrial road through the site is to be extended beyond the property boundaries for future tie-in with the adjoining developments.
- c) The temporary access road is to be tested for a 36.5m PBS Level 3 Type A Vehicle as the road will function as a public road in the interim arrangement.
- d) The applicant has not undertaken a modelling assessment, and the traffic report states that the previous assessment undertaken remains valid. The applicant should be advised to undertake traffic modelling associated with the proposal and the outcome of the traffic modelling to be submitted for assessment.

- e) Construction traffic with the staging requires confirmation at the relevant stages.
- f) Prior to the issue of any construction certificate or any preparatory, demolition or excavation works, whichever occurs first, the applicant shall prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with TfNSW.
- g) The proposal should include loading dock operational management plans (can be conditioned).

5. Environmental Management Considerations

a) Land Contamination

A Detailed Site Investigation prepared by Geo-Logix (dated 24 October 2024, ref 2401062LtvRpt01FinalV01_24Oct24) has been provided along with the modified development proposal and is to be treated as an addendum to the contamination documentation previously reviewed. The Investigation provides a detailed overview of the additional development footprint which is to be used for the acceleration/merging laneway to the service the subject property. This includes an appropriate number and coverage of sample locations to investigate the areas of concern in accordance with relevant guidelines. Furthermore, assessing the sample results against relevant criteria has revealed all samples to be below the relevant criteria for the proposed land uses. The addendum Detailed Site Investigation has determined that the additional development footprint is considered suitable for the proposed use and therefore, in terms of land contamination, there are no further concerns.

b) Water Management

A Sediment and Erosion Control Plan prepared by AT&L (dated 31 March 2025) has been provided along with the application and is generally satisfactory from an environmental management perspective. Please refer to further comments below from Council's Waterways Officer.

c) Air Quality & Odour

An Air Quality Impact Assessment prepared by RWDI Australia (dated 17 April 2025, ref 2200333) has been provided to Council for comment to address concerns surrounding air pollution impacts on

surrounding receivers because of the amended development proposal. The Assessment satisfactorily identifies the surrounding sensitive receivers and provides modelling to determine potential air quality impacts during both the construction phase and operational phase of the proposed development. It is concluded that the most likely phase of the development of which air quality impacts may arise are during the construction stage of the development, and several mitigation measures are proposed to be implemented during the construction phase of the development to reduce potential air quality impacts on nearby sensitive receivers. It was identified that impacts generated from the operational phase of the development will be negligible, however mitigation measures have been proactively recommended to be implemented. The Air Quality Impact assessment is generally satisfactory, provided that the recommended mitigation measures are implemented where required.

d) Noise Impact

A Noise Impact Assessment prepared by RWDI Australia (dated 16 April 2025, ref 2200333) has been provided. The Noise Impact Assessment satisfactorily identifies potential noise impacts which may arise from both the construction phase and operational phase of the proposed development, as well as traffic which may be generated because of the proposed development. Furthermore, the duration of the acoustic monitoring is deemed to be satisfactory, as well as the surrounding potential sensitive receivers which have been identified. Provided that the recommended mitigation measures proposed within the Assessment are adhered to, there should be no offensive noise generated as a result for residential receivers located outside of the Mamre Road Precinct.

However, it is noted that there are exceedances of the residential project noise trigger levels for the nearby residential receivers located within the Mamre Road Precinct, and it has been concluded within the Noise Impact Assessment that additional mitigation to resolve the residential project noise trigger levels would be neither feasible nor reasonable as it is expected that the nearby residential receivers would likely be uninhabited or no longer existing at the time of operation of the proposed development. This assumption is to be confirmed by the Department prior to works commencing on site and further assessments undertaken if deemed necessary to ensure that the residential receivers located within the Mamre Road Precinct

which currently occupy these adjacent properties are not adversely impacted because of the proposed development in terms of noise.

6. Waterways Considerations

- a) No interim treatment measures are proposed as the wetland and pond that will service the development of 805–817 Mamre Road forms part of the regional scheme infrastructure planned by Sydney Water (Wetland 7). The wetland will be configured in a manner that will allow it to function as a stand-alone measure, with allowances to be connected to the future extension of the regional scheme infrastructure to the south. It will be important that this is designed in a manner consistent with Sydney Water's requirements.
- b) Passively irrigated street trees are now proposed – conditions will be required to ensure they are designed as per Council's requirements.
- c) Sediment and erosion controls are proposed which appear to align with advice provided by the Department (although it is noted that the use of Type A or B basins as per the Technical guidance for achieving Wianamatta–South Creek stormwater management targets general requirement have not yet been adopted).
- d) It is noted that rainwater tanks are not proposed which is a departure from the DCP. It is acknowledged that a recycled water scheme is planned for the precinct and the rainwater tank would be required to be decommissioned in any case.
- e) Prior to determining the application, the Department 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) as well as any of Sydney Water's requirements with respect to proposed regional stormwater infrastructure (e.g., Basin 7).
- f) With respect to the GPTs it is noted that the GPT's will be the responsibility of the developer / property owners to maintain. Conditions will need to be included in any consent requiring this and detailed operation and maintenance manuals are required. It is suggested that positive covenants and restrictions of use should also be placed to ensure that all privately owned systems will be maintained in perpetuity.

- g) It is noted that rainwater tanks are not proposed as interim measures until the delivery of the regional stormwater management scheme as required by current version of DCP.
- h) Conditions need to be applied to ensure that prior to completing detailed design the plans for passively irrigated street trees must be submitted to Council for review and approval.
- i) Should the application be approved, adequate conditions will need to be in place to ensure that all proposed infrastructure is designed, constructed and maintained to Sydney Water's requirements. It is suggested that conditions and advice be sought from Sydney Water with respect to the proposed stormwater infrastructure to ensure it is delivered in an acceptable manner.
- j) Should the application be approved conditions should also be applied to ensure that all stormwater infrastructure, including GPTs, irrigation systems, ponds etc., remains under the ownership, control, and care of the registered proprietor of the lots (until such time the relevant assets are dedicated to Sydney Water).

7. Biodiversity Considerations

- a) From a review of the plans the trees identified are still proposed to be removed. Despite the trees being less than 50cm in diameter (not confirmed by Council) the retention of trees is still a DCP development control. Section 4.2.3 (5) speaks to paddock trees and does not specify a specific size of tree.
- b) From a review of the amended Watercourse and Biodiversity Assessment, this has provided commentary against Council's previous comments in December 2023. These comments are provided in Table 1-3. For the third point under 5. Environmental Health Considerations it appears there is missing text in the response provided by ecolique. In the Submissions Report the only comment by Ethos relating to the additional reports and requirement is Noted.
- c) From the material supplied no Dam Dewatering report, Vegetation Management Plan or Weed Management Plan has been provided.
- d) Further to previous comments provided it should be further noted that the VMP will need to be prepared to meet the Development Controls of Section 2.2.3 of the Mamre Road DCP where it states '3) A

Vegetation Management Plan (VMP) for the rehabilitation and conservation of native vegetation is to be prepared by a suitably qualified expert for land within the blue-green network.'

- e) Further explanation under the Lodgement requirements 'A Vegetation Management Plan (VMP) for the rehabilitation and conservation of native vegetation and habitat is to be prepared for land located within E2 Environmental Conservation, RE1 Public Recreation or a Riparian Corridor. The VMP is to be prepared in accordance with the requirements of NSW Natural Resources Assessment Regulator and the Department of Planning, Industry and Environment.'
- f) This will need to be considered and addressed by the applicant when preparing the VMP to meet condition of consent (if conditioned).

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

Penrith City Council
PO Box 60, Penrith
NSW 2751 Australia
T 4732 7777
F 4732 7958
penrith.city