

Our reference: ECM Ref: 9733734  
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Department of Planning, Industry and Environment  
Attn: Shaun Williams  
Email: [shaun.williams@planning.nsw.gov.au](mailto:shaun.williams@planning.nsw.gov.au)

Dear Mr Williams,

**Response to Request for Advice: SSD-18204994 Snack Brands  
Manufacturing Facility at 14 Distribution Drive, Orchard Hills**

I refer to the Department's request to provide comments in relation to the above application. Thank you for providing Council with the opportunity to comment.

The following comments are provided for the Department's consideration in relation to this matter.

**1. Planning Considerations**

The site currently provides for a temporary turning head at the termination of Distribution Drive. A separate Planning Proposal is under consideration by Council that seeks to rezone land to the north from Rural to Industrial and includes details for the extension of Distribution Drive. The plans submitted with this SSD application seek to formalise the temporary turning head which would likely be redundant when the extension of Distribution Drive is constructed. Consideration should be given to a staged development where the temporary turning head / formalised turning head is removed upon construction of the Distribution Drive extension and a driveway installed to maximise available landscaping opportunities in the road setback zone. At present, the turning head compromises available planning which is unlikely required when Distribution Drive is extended.

The Traffic and Parking Assessment Report seeks a variation to car parking numbers based on survey demand and projected utilisation. The proposal includes 274 parking spaces across the existing adjacent lot and proposed development lot. The forecast demand for parking at peak is 259 spaces as outlined within Clause 4.1.4 of the Transport Assessment Report. This is important to note as the proposal indicates 18 x parking spaces protruding into the Mamre Road setback extent which should be deleted. While a similar arrangement may exist on the existing adjacent lot, the location of the easement for services compromises planting opportunities in this location and it is recommended that these 18 spaces be deleted and the landscaping maximised in this zone. Given the extensive expanse of temporary truck parking area indicated on the landscape plans, any required overflow parking could be otherwise located in this same temporary area subject to traffic and safety management plans.

The landscape plans depict tree planting within the car park however the trees should be offset / staggered across both sides of the aisle to maximise canopy

cover and shading opportunities in accordance with Council's Cooling the City Strategy. The current tree planting arrangement in the car park will not sufficiently assist to ameliorate the abundance of exposed hard stand parking on the site. The same offset principle should also be applied between the single trees in the parking area and the trees within the landscape strip between the parking area and the hardstand extension opposite the proposed compactors area. With the exception of one location, the trees are planted adjacent to each other which is a poor arrangement.

The landscape strips for tree planting in the car park are also inadequate in size and dimension. A minimum of 2m width (if not greater) is required whereas the landscape design plan suggest only 1.0m (or less) is provided. This inadequate to achieve the canopy coverage required to meet the objectives of the car park tree planting requirements. This will necessitate further reduction in car parking to address these requirements. The resulting car parking numbers achievable would need to be reconsidered against the projected demand within the Traffic and Parking Assessment and if there is a shortage, redesign to accommodate the required parking would be expected.

Advertising Signage wasn't apparent on the elevation / photomontage drawings submitted. It is requested that any intended signage be detailed on the plans and its proportions and intent is considered in the assessment of the application.

## **2. Development Engineering and Traffic Management Considerations**

### **Section 138 Roads Act Requirements**

Distribution Drive has been dedicated to Penrith City Council as a Public Road. Any works within the road reserve of Distribution Drive, including the proposed truck entry or connection of utility services, will require a formal Section 138 Roads Act approval from Penrith City Council as the Roads Authority.

### **Local Flooding**

It is acknowledged that the site is not affected by mainstream flooding from South Creek in a 1% AEP flood event. The development site adjoins a stormwater channel, contained within the drainage easement (D), that was constructed as part of the parent subdivision works. Details of the stormwater flows within the channel were not provided with the application. The development must ensure that floor level of any warehouse structure is located at least 0.5m above the top water level of the 1% AEP flow within the stormwater channel contained within the drainage easement (D).

### **Perimeter Fencing**

The lot is burdened by a variable width drainage easement (D) that contains a stormwater channel to convey upstream stormwater flows around the development site. A 2.1m high palisade perimeter fence is proposed across a stormwater channel at the north-east corner of the lot (adjoining Lot 12 DP 271141) which may impede flows. The fence must be designed to accommodate the stormwater flows contained within the channel up to the 1% AEP local flood event. Any fencing proposed in this location must not have any adverse impacts upon adjoining properties by way of the concentration, diversion, damming or blocking of stormwater flows within the channel.

### Filling of Land

A Construction Traffic Management Plan will be required to be submitted detailing expected truck movements for the importation of fill onto the site. An Infrastructure Restoration Bond will be required to be submitted to Penrith City Council to cover any damage to Council assets during the construction phase.

### Additional Recommended Conditions of Consent

- **Prior to the commencement of any works**, the Certifier shall ensure that a minimum of four Electric Vehicle Charging Stations (EVCS) are to be provided within the car parking areas of the warehouse development. The charging stations are to be designed to accommodate the requirement of commercially available public vehicles and their required connector types (currently known as Type 1 and Type 2 connectors). A minimum of six additional car parking spaces are to be designed to be readily retrofitted as EVCS parking spaces. The installed EVCS car parking spaces are to be signposted and marked as for the use of electric vehicles only and are to be located as close as possible to the building accesses after accessible parking space priority. EVCS are to be free of charge to staff and visitors.
  
- **Prior to the issue of any Construction Certificate or the commencement of any works**, the Certifier shall ensure that Complying numbers of secure, all weather bicycle parking, end of journey facilities, change rooms, showers, lockers are to be provided at convenient locations at each warehouse development in accordance with Council Development Control Plan (DCP) C10 Section 10.7, AS 2890.3 Bicycle Parking Facilities and Planning Guidelines for Walking and Cycling (NSW Government 2004).
  
- **Prior to the issue of any Construction Certificate or the commencement of any works**, the Certifier shall ensure that:
  - (a) Off street access and parking complies with AS 2890.1, AS 2890.2 and AS2890.6.
  - (b) Sight distances for driveways at the street frontage have been provided in accordance with AS 2890.1 and AS 2890.2. The required sight lines around the driveway entrances shall not to be compromised by landscaping, fencing or signage.
  - (c) All vehicles can enter and exit the site in a forward direction.
  - (d) The access driveway widths must accommodate swept movements of the largest vehicle servicing the site and be designed to conform with AS 2890.1, AS 2890.2 and Council requirements. The entry and exit driveways in the car park are to be presented in a way to highlight the right of way of pedestrians and cyclists on the road frontage.



- All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc.

### **3. Environmental Management Considerations**

With respect to the Environmental Site Assessment prepared by JBS&G dated 20/4/2021, an unexpected finds protocol is recommended to be prepared prior to issue of Construction Certificate and should be addressed via conditions of consent.

With respect to the Noise Emission Assessment prepared by Renzo Tonin and Associates dated 10/8/2021, the recommendations within the report must be addressed via conditions of consent and adhered to

With respect to the Air Quality and Odour Impact Assessment prepared by Northstar Air Quality dated 23/8/202, the assessment does not appear to have considered the child care centre located to the north of the subject site. This development is a sensitive receiver and it is considered appropriate that this assessment address potential impacts of construction activities and on going use with respect to this land use.

### **4. Biodiversity Considerations**

The application includes a Biodiversity Assessment Report prepared by Travers Bushfire & Ecology dated 30 June 2021. The report has been prepared for the purposes of a BDAR waiver in relation to the State Significance Development. For the BDAR waiver to be supported, the consent authority must be satisfied that the proposed development is not likely to have any significant impact on biodiversity values. Two of these considerations is vegetation integrity and habitat suitability. The report states that all the existing vegetation is derived and highly disturbed and there is marginal habitat for one threatened species the Green and Golden Bell Frog. The assessment has concluded that 'the vast majority of the vegetation present is exotic and there are a few native species present, it is not considered that vegetation on site provides sufficient vegetation integrity to warrant detailed assessment.'

However, it is noted that no floristic plots or qualitative analysis was undertaken to determine of whether the integrity score would have been high enough to warrant further assessment. In saying this the site is subject to current earthworks and validation of this is unlikely except for the artificial drainage that exists along the northern and western boundary of the site.

The report has concluded that there will not be a significant impact on the Green and Golden Bell Frog as:

- The study area does not likely support GGBF breeding and shelter habitat in the absence of use of other localised habitat areas used for core breeding;
- The study area is now surrounded by recently constructed industrial development providing a barrier to the other potential breeding locations that remain.

- The other local breeding opportunities that do exist are not likely to support core habitat for a local population;
- There are no local or recent records to suggest that a population persists in the locality.

It is therefore concluded that the study area is not of any likely importance or use to GGBF and a viable local population is not likely present to warrant any further survey or assessment.

As a result the conclusions outlined within the report are supported and no concerns or objections are raised to the waiver request. It is however recommended that an unexpected finds protocol is developed in respect to the Green and Golden Bell Frog, reptiles and mammals and the humane treatment of exotic species by a qualified and experienced Ecologist.

## **5. Waterways Considerations**

The proposed development will include a satisfactory stormwater management cycle which includes a Water Sensitive Urban Design (WSUD) strategy which achieves the relevant stormwater and pollution reduction targets across the site. Rainwater harvesting would also be applied across the site (where considered practical), which will incorporate re-use in irrigation methods and recycled potable water components, i.e. toilet flushing, roof wetting and irrigation. The applicant stormwater report states that both a 50kl and a 40kl rainwater tank are to be provided with a non-potable reuse demand of %80.37. The above comments above indicates compliance with Penrith Council's WSUD strategy. However, an electronic MUISIC model in sqz format should be made available to support the application as two different sizes of rain tank have been provided.

## **6. Landscape Design Considerations**

In addition to landscaping comments within the planning section of this response, the following comments are provided from Council's Landscape Architecture Team and are requested to be considered in the assessment of the application:-

### **General Comments**

- The proposed plant species diversity as represented in the submitted schedule is satisfactory, however a diverse use of the species should be applied to all planted areas to encourage biodiversity, resilience and interest.
- Canopy planting should be maximized to reduce the visual impact of the development, particularly the tall Snack Brands built forms to the south, compensating for the very limited tree planting that has been delivered as part of this approval.

### **Drainage and Other Easements**

- Additional tree plantings should be provided along the northern boundary at the top of the drainage easement to increase canopy and cooling and reduce the visual impact of Snack Brands very large built forms from the

southbound road corridor. This will need to be considered having regard to the form and continued function of the easement.

- Investigation should be undertaken into the realignment of the underground cables easement to enable additional scope for tree planting.

#### Public Domain / Streetscape Considerations

- Additional canopy and visual amenity can be achieved through supplementary tree planting both sides of the utilities easements along Mamre Road. A staggered arrangement of appropriately sized tree species can achieve 100% linear canopy coverage. Screen planting should also include greater density of shrubs to compensate for trees not able to be planted in easements areas. Available space should be maximized for maximum canopy and screening possible
- Given the narrow width for rootzones between the easement root barrier and carpark hardstand surface, an engineered trench for tree planting should be investigated and considered to enable long term health tree root development for resilience in storm conditions.
- Provision of street tree planting at 8m centres to Distribution Drive is considered necessary and consultation should occur with Council regarding tree species. This could be addressed via conditions of consent.
- Provision of additional landscaping around sprinkler tank and pump room is recommended whilst providing necessary access to visually contribute to the streetscape and improve wayfinding at driveways.

#### Temporary truck parking area

- This area should be visually separated from the carpark with a garden bed that provides vegetated screening and shade planting, and reduces the visual impact of the 2m high palisade fence.
- The extent of compacted aggregate finish to the parking area is considerable. A number of islands planted with large canopy trees and WSUD should be investigated to reduce heat generation. Pedestrian access from this carpark should also be considered and depicted (noting comments above regarding relocated and overflow parking).
- Section BB demonstrates truck parking will be visible from the public domain and Mamre Rd. Dense screening is required meaning trees and groundcovers must be supplemented with dense shrub plantings that will achieve a size so that the full height of trucks cannot be seen from surrounding areas, as per DCP objectives.

#### Carparks

- Increases to the diversity and density (decreased spacings) of trees to the perimeter edges of all carpark areas is considered necessary to achieve DCP objectives.



- A carpark tree planting detail has not been provided. The tree pits should also be engineered (eg. Stratavault system, structural soil etc) to sustain rootzones noting comments above for wider landscape beds. Canopy cover in the carpark is also minimal and larger species should be considered in tandem with larger tree pits.

## **7. Building and Certification Considerations**

I have reviewed the information for this State Significant Development. Under the Environmental Planning and Assessment Act 1979 SSD'S do not require a formal Construction Certificate, however "Certification" that the building will comply with the BCA will be required under the Act.

A BCA report has been provided by "mckenzie group" advising that a "Performance Solution" will need to be formulated for some BCA non deemed to satisfy provisions. The report mentions that the performance solution is to be formulated at the CC stage although a CC is not required by the NSW Government Planning Industry & Environment. Obtaining a CC, or not, will be up to the discretion of the NSW government.

The building advice is.

- Certification is to be obtained that the building works will comply with the Building Code of Australia in accordance with the Environmental Planning and Assessment Act 1979.

## **8. Public Health and Food Safety Considerations**

Council's submission to the SEAR's request sought detailed plans, sections and elevations of food handling and storage areas. These plans and drawings must demonstrate compliance with, AS4674 and Food Safety Standard 3.2.3 Food Premises & Equipment. It was also suggested that the NSW Food Authority be consulted to determine if they would like a referral or not as the operation of the premises will be regulated by them and not Council. The submitted Environmental Impact Statement (EIS) specifically discusses the food fit out. Section 6.1.8 Food safety, on page 142 states: "*This section of the EIS evaluates the matters of food safety associated with the proposed development, as per the SEARs, in relation to food handling and processing and how NSW Food Authority standards and requirements will be met. SBA currently has a Quality Management System and Hazard Analysis Critical Control Points (HACCP) plans for all current and proposed processes, which will be updated with any new equipment at the new facility*".

The EIS further states: "*Stage 1 of the development (including variety packing lines) has been HACCP certified and Safe Qualified Food (SQF), global food safety standard certified, which will be expanded to include certification for Stage 2 (including raw materials & manufacturing) once the site starts operating. Customer standards will also be implemented (CFMSR, WSE, Aldi) as per current SBA sites*".

It is therefore recommended that conditions be imposed that require compliance with the following:

- *Ongoing compliance with AS4674, Food Safety Standard 3.2.3 Food Premises & Equipment; and*
- *The Stage 2 recommendations above relating to the applicants own Quality Management System and Hazard Analysis Critical Control Points (HACCP) plans for all current and proposed processes and any new equipment at the new facility be conditioned.*

Council's submission to the SEAR's request also sought details that include, but are not limited to, the number of systems, type of systems, system details and location of system. The EIS and supporting information and reports are largely silent on Regulated Systems (Cooling Towers) other than a reference in the Noise Report regarding the location of plant on the roof and a maximum db(A) level. This should be clarified with the applicant and / or it is recommended that conditions be placed on any consent as follows:

- *Any regulated system must be installed in accordance with AS/NZS 3666.1:2011 Air-handling and water systems of buildings—Microbial control—Design, installation and commissioning, as applicable to the specific system. A certificate is to be obtained and submitted to Council certifying that the system has been installed in accordance with the Public Health Act 2010, Public Health Regulation 2012 and AS3666.1:2011.*
- *Any regulated systems intended to be installed on the site must be registered with Penrith City Council by completing the registration form for regulated systems. This form is to be returned to Council prior to the issuing of the Occupation Certificate and operation of the system;*
- *Any regulated systems must be operated and maintained in accordance with the Public Health Act 2010, Public Health Regulation 2012, AS3666.3:2011 Air-handling and water systems of buildings – Microbial control – Performance-based maintenance of cooling water systems and the current edition of the NSW Code of Practice for the Control of Legionnaires Disease;*
- *There must be safe and easy access to a regulated system (as defined in the Public Health Act 2010) for the purpose of the cleaning, inspection and maintenance of the system;*
- *Any liquid discharge from the regulated system, resulting from the operation, maintenance and/ or cleaning operations, is to be disposed of into the sewer system. Discharge into the stormwater disposal system is not permitted; and*
- *All chemicals shall be stored in adequately labelled containers with tight fitting lids and banded or stored in such a way to prevent the chemical entering the stormwater system.*



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Should you wish to discuss any other aspect of Council's comments further, please do not hesitate to contact me directly on (02) 4732 8125.

Yours sincerely



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