



*Planning Direction Pty. Ltd.*  
*Town Planning & Development Services*

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

**Proposed Industrial Complex  
Development Comprising of 29  
Units & 1 Cafe tenancy and  
Creation of a Strata Plan**

**at**

**No 1-23 Lenore Drive Erskine Park**

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# **STATEMENT OF ENVIRONMENTAL EFFECTS**

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## **TABLE OF CONTENTS**

	<b>PAGE No</b>
<b>1.0 INTRODUCTION</b>	<b>1</b>
<b>2.0 THE SITE AND ITS CONTEXT</b>	<b>3</b>
<b>3.0 PROPOSED DEVELOPMENT</b>	<b>7</b>
<b>4.0 SEPP 2009 – WESTERN SYDNEY EMPLOYMENT AREA</b>	<b>10</b>
<b>5.0 PENRITH DEVELOPMENT CONTROL PLAN 2014</b>	<b>24</b>
<b>6.0 SECTION 4.15 EVALUATION</b>	<b>39</b>
<b>7.0 CONCLUSION</b>	<b>44</b>

### **LIST OF APPENDICES**

**Appendix A: Email correspondence from the Department of Primary Industries**

**Appendix B: Architectural Design Statement**

## 1.0 **INTRODUCTION**

**Planning Direction P/L** has been engaged to prepare a Statement of Environmental Effects to accompany a development application to Penrith Council. The development application relates to land known as No 1-23 Lenore Drive Erskine Park and includes a strip of Council land previously known as Lenore Lane.

The applicant seeks development consent to undertake the following:

- Consolidate the site;
- Construct an industrial complex containing twenty nine (29) industrial units of varied sizes serviced by at-grade parking and loading facilities, a cafe tenancy and basement car parking accommodating 62 car parking spaces; and
- Create a Strata Plan over the completed development.

As a matter of background, Council has previously considered an application for a tavern and associated neighbourhood shops on the subject site. This approved development did not progress.

More recently the applicant has attended two pre DA meetings with Council. After the first preDA meeting Council requested that the applicant consider consolidating and acquiring the adjoining surplus Council land previously used as a road - unformed Lenore Lane situated to the south of the subject site. The applicant obliged by reviewing the whole scheme to include the surplus Council land. Meetings with Council's property branch were had and Council's property division has provided tacit support for the proposal subject to satisfying Council's policy - *Unsolicited Request to Purchase Council Land*.

The applicant attended a Urban Design Review Panel meeting on the 22nd November 2017. At that meeting design issues were discussed and recommendations were made re adjustments to the design. The design solution has adopted all recommendations of the panel.

Discussions were also had with Gina Potter - Water Regulation Officer of the Crown Lands & Water Division of the Department of Industry re the proximity of the site to the natural water course adjoining the site to the south. The

Department is satisfied that the subject site is sufficiently distant from the watercourse corridor and that no issue arises with building close to the southern boundary. A copy of the email correspondence is attached as **Appendix A**. Such consideration is a requirement pursuant to the Integrated Development provisions.

Accordingly, the applicant is seeking to develop the site with the Council surplus land, which effectively completes the 'land puzzle' of undeveloped land within the industrial precinct. The applicant proposes to erect a Strata Titled industrial warehouse complex across the consolidated sites.

The proposed industrial complex comprising of 29 industrial high span warehouse units of varying sizes. The proposed units typically incorporate a large warehouse or factory component with a ground level or mezzanine level office area. The units will all benefit from at-grade access and parking supplemented by basement car parking containing 62 car spaces

This Statement of Environmental Effects is intended to assist Penrith Council in its assessment of the application, by including an evaluation of the proposal against the provisions of State Environmental Planning Policy - Western Sydney Employment Area and Council's Development Control Plan 2014 - Chapter E6 relating to Erskine Park (North). An assessment has also been undertaken against the heads of consideration under Section 79(C) of the Environmental Planning and Assessment Act 1979.

The statement of environmental effects should be read in conjunction with the following:

- Survey plan prepared by *OSUM Surveying Pty Ltd*;
- Architectural plans prepared by *Ark Express*;
- Traffic Report prepared by *Traffix*;
- Waste management plan prepared by *Ark Express and Grasshopper Environmental Services*;
- Landscape plan prepared by *Outthere Landscape and Design*;
- Stormwater design prepared by *Triaxial Consulting*;
- BCA report prepared by *BuildCert Consultants*;

## 2.0 SITE AND CONTEXT

### 2.1 Subject Site & Context

The subject site is known as No 1-23 Lenore Drive Erskine Park and a strip of surplus Council land previously known as Lenore Lane.

The subject site is a triangular in configuration benefitting from a frontage to Lenore Drive to the east and Erskine Park Road to the west. The subject site is legally described as Lot 1 in DP 107 1114 and Lot 55 in DP 1170183 (Council surplus lot) and is known as No 1-23 Lenore Drive Erskine Park.

Lot 1 in DP 1071114 - 11,220sqm

Lot 55 in DP 1170183 - 2131dqm

The subject consolidated site forms a large allotment having a total site area of **13,351sqm**.



**Subject Site**

The subject land is currently vacant and includes a scattering of low vegetation and gum trees. The subject site is not heritage listed nor is the site located within a heritage conservation area.

With regards to topography, the subject site is effectively level with a gradual fall from north to south of approximately 3m. It is proposed to direct stormwater towards the creek which runs along the south of the subject site.

The subject site is situated within a precinct predominantly dominated by large industrial warehouse type uses. The subject site is ideally located adjacent to the newly formed Erskine Park link road connecting to the M7 and orbital motorways surrounding Sydney. The location characteristics of the precinct has contributed to a large increase of industrial development in recent times.

Nearby development includes a large depot and warehouse facility operated by Linfox with a number of other large storage and warehouse facilities including Coles in the immediate vicinity.

The site is not known to be contaminated, is not flood prone or constrained by acid sulfate soils.



**View of the site from Lenore Drive**



**View of site from Erskine Park Road**



**View of site looking north from Erskine Park Road**



**View of the site from Lenore Drive**

### 3.0 **PROPOSED DEVELOPMENT**

#### 3.1 **The Proposal**

The applicant seeks development consent to undertake the following development at No 1-23 Lenore Drive Erskine Park:

- Consolidate the site;
- Construct an industrial complex containing twenty nine (29) industrial units of varied sizes serviced by at-grade parking and loading facilities, a cafe tenancy and basement car parking accommodating 62 car parking spaces; and

Create a Strata Plan over the completed development.

The proposed development may be numerically summarised as follows: -

29 industrial units ranging in size between 150sqm and 375sqm per unit	<b>6,875sqm of floor space including mezzanine levels</b>
Ground floor site coverage	<b>5,595sqm or 42%</b>
1 cafe	<b>80sqm</b>
<b>TOTAL GFA including mezzanine</b>	<b>6,955sqm of floor space</b>
<b>TOTAL No. UNITS</b>	<b>29 + 1 cafe</b>

#### **Parking Calculation**

FACTORIES (1 SPACE PER 75m <sup>2</sup> ) CAFE (1 SPACE PER 6m <sup>2</sup> OF SEATING AREA + 1 SPACE PER EMPLOYEE)	$= 6875 / 75 = 91.66$ $= 8$ (BASED ON 36m <sup>2</sup> OF SEATING AREA & 2 EMPLOYEE)
<b>TOTAL PARKING REQUIRED</b>	<b>100</b>
<b>TOTAL PARKING PROVIDED</b>	<b>111 comprising of 49 at-grade and 62 within the basement. 4 accessible spaces are also provided</b>



**Images of the proposed development**

The industrial units are designed to attract small business owners requiring affordable space within a well serviced industrial locality. Such small units are designed to complement the larger warehouse style industrial complexes within the catchment and better address vehicle access considerations.

A key issue of consideration with the application is vehicle access to and from the site. Given the triangular configuration of the site and corner location at a prominent intersection, access to the site will be limited to 'left in' and 'left out' from both streets. The subject site fronts Lenore Drive and Erskine Park Road, which are main roads in this locality. It is understood that the application will be referred to RMS for consideration. Smaller units are considered to be more suitable for the site given that large semi-trailer vehicles will not be required to service the respective uses.

The provision of two vehicle access points as proposed provides flexibility to prospective tenants/visitors to enter and leave the site with reasonable ease. Both driveways are sufficiently distant from the main road intersection.

In addition the basement car parking assists with containing visitors and staff on-site in a safe and convenient manner.

Given the main road frontages, the design has been adjusted to provide varied setbacks to both streets incorporating on averaging compliance with the intent of the controls. In particular a substantial depth of planting opportunities has been a provided within the building alignments to assist with screening and beautification at the prominent intersection.

The facades of the development are well articulated and presented to achieve a high standard of development and finishes. Such complements the landscape treatment of the site and was generally well received by the urban design panel.

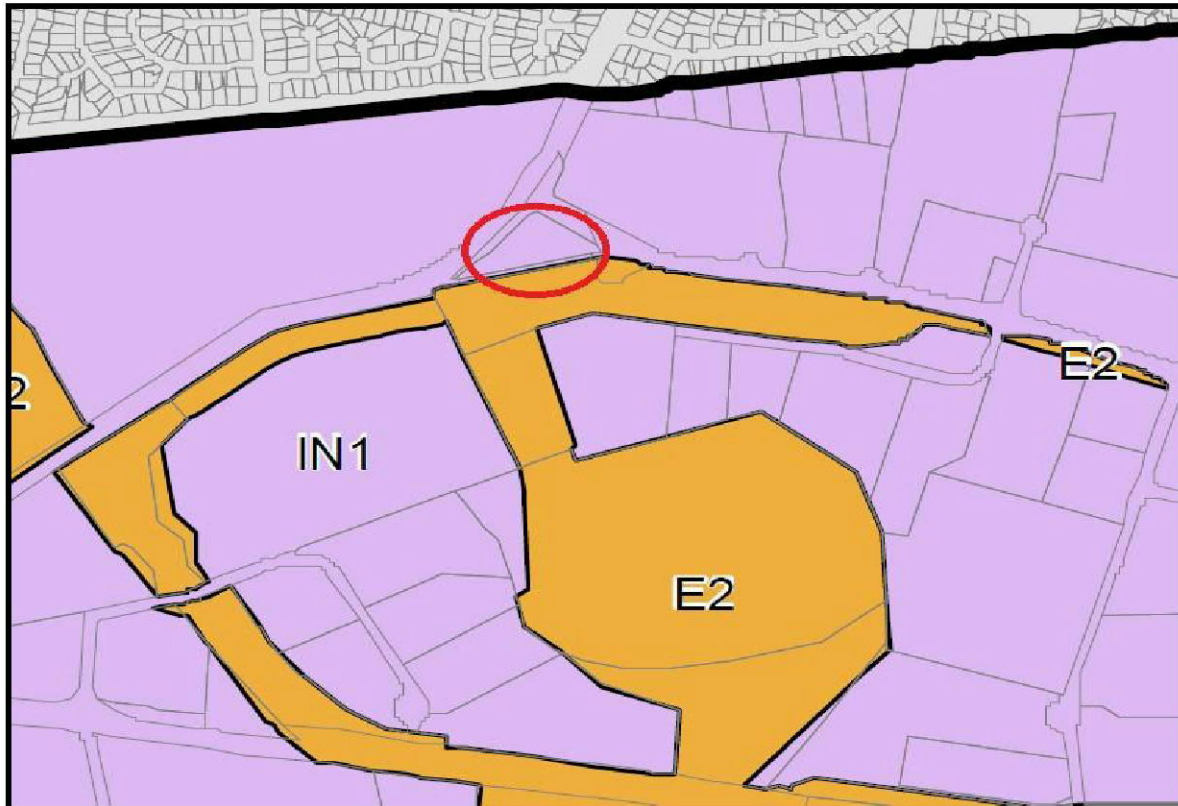
The inclusion of the Council land in the subject site assists by providing a level regular platform on-site and the siting of the built form away from the main road frontages.

A detailed assessment of the proposal against the provisions of Council's planning instruments is provided in subsequent sections of this statement of environmental effects.

#### 4.0 **SEPP 2009 – Western Sydney Employment Area**

##### 4.1 **Zone and Zone Objectives**

The subject site is zoned IN1 General Industrial pursuant to the Western Sydney Employment Area 2009 SEPP.



**Zone Extract**

The land use table for the zone permits a broad range of uses:

*2 Permitted without consent*

*Nil.*

*3 Permitted with consent*

*Depots; Food and drink premises; Freight transport facilities; Garden centres; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Industries (other than offensive or hazardous industries); Neighbourhood shops; Places of public worship; Roads; Service stations; Transport depots; Truck depots; Warehouse or distribution centres.*

#### *4 Prohibited*

*Any development not specified in item 2 or 3.*

Permissible uses are defined as follows:

**industry** means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing or adapting, or the research and development of any goods, chemical substances, food, agricultural or beverage products, or articles for commercial purposes, but does not include extractive industry or a mine.

**warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

**food and drink premises** means retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, take away food and drink premises, milk bars and pubs.

**industrial retail outlet** means a building or place that:

- (a) is used in conjunction with an industry but not in conjunction with a warehouse or distribution centre, and
- (b) is situated on the land on which the industry is carried out, and
- (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry is carried out.

*Note.*

*See clause 30 for controls relating to the retail floor area.*

Comment:

It is anticipated that future uses on-site will accord with one of the above definitions.

Adjoining the subject site to the south is land zoned E2 Environment Conservation including a creek running through a newly established green space corridor. Council's engineers have recommended that drainage from the site be directed to this creek.

The industrial zoning objectives under the SEPP are as follows: -

- *To facilitate a wide range of employment-generating development including industrial, manufacturing, warehousing, storage and research uses and ancillary office space.*
- *To encourage employment opportunities along motorway corridors, including the M7 and M4.*
- *To minimise any adverse effect of industry on other land uses.*
- *To facilitate road network links to the M7 and M4 Motorways.*
- *To encourage a high standard of development that does not prejudice the sustainability of other enterprises or the environment.*
- *To provide for small-scale local services such as commercial, retail and community facilities (including child care facilities) that service or support the needs of employment-generating uses in the zone.*

**Comment:**

The proposal is encouraged by virtue of the zone objectives in particular the proposed development will create additional employment generating opportunities within the locality to the benefit of the local community and Council.

The first zone objective is to seek appropriate forms of development on land which lead to employment generating development offered by a variety of uses including manufacturing, warehousing, storage and research. The provision of a variety of building sizes promotes the attractiveness of the development to a range of end users unlike the limitations placed by one large static building.

The provision of 30 unrelated tenancies automatically employs 60 plus staff directly and engages existing businesses in the broader catchment indirectly resulting in the employment of more people. A high percentage of small businesses will source employees from the local work force and trade with local businesses.

Had the site being developed as a large warehouse complex and given the high levels of automation, the number of people employed directly and indirectly would be far less.

Given the next three objectives relate to transport corridor links and impacts, the subject site is only capable of accommodating small industrial units which deal with small trucks and vans as service vehicles.

A large semi trailer cannot practically access the site and is therefore discouraged given the triangular shape of the site and inadequate turning paths from the main roads. Such has been determined only recently after much negotiation with RMS in respect of the project.

Minimal works are required to the respective main roads to facilitate the development of the site as proposed. RMS welcomes this outcome.

Smaller industrial units will also compliment the large scale industrial complexes in the vicinity by utilising potentially product and services. There will be no direct competition and as such will not prejudice the sustainability of other enterprises.

The smaller industrial units are suited to this 'edge' development site constrained by access, configuration and topography. A better resolution of levels and external finishes is derived in this instance, particularly with the articulated elevations facing the main roads. Such would not be appropriate for a large warehouse complex.

The provision of smaller industrial units activates the edge of the precinct and is likely to attract users from the nearby growing residential communities in search of smaller modern industrial units. Such is not offered in the larger industrial complexes existing in the precinct.

The applicant's marketing arm has established a high demand for the scale of smaller units as proposed. Flexibility still remains to consolidate units should the demand be there upon completion and marketing of the development.

Finally, the smaller industrial units enables the negotiation with Council to proceed with the inclusion of Council's land in the development site. A clean swap for Council's redundant laneway is readily achievable. Council's property department has expressed a preference to access a finished unit as fair payment for Council's land. The proposed design facilitates this transaction and appropriately ensures that no land parcels remain fragmented because of the proposal. A major principle of the SEPP.

The SEPP does not call for economic analysis of hypothetical uses and neither does the EPA Act 1979. The proposal does however meet the primary objects of the Act being:

### **1.3 Objects of Act**

*(cf previous s 5)*

*The objects of this Act are as follows:*

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) **to promote the orderly and economic use and development of land,***
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) **to promote good design and amenity of the built environment,***
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The urban design panel of Council also endorsed the design as being a good fit in its environment.

The proposal is highly appropriate in terms of the zone, zone objectives and site considerations.

The proposal provides for an appropriate type of industrial accommodation in the locality that is currently lacking. An industrial development containing a range of smaller industrial units will meet current levels of demand for affordable accommodation within a well serviced industrial precinct. The industrial units are of a sufficient size to attract various businesses and sustain longevity of use and employment at the site.

The proposed development can be appropriately designed and landscaped to present well to both street frontages. A high standard of facade treatment and finishes is proposed to maximise design quality and attract suitable end users.

The proposal is ideally located adjacent to main arterial roads which lead directly to the M7.

The proposal is permissible within the zone and accords with the zone objectives.

**Clause 14** of the SEPP relates to Subdivision—consent requirements and states the following:

*(1) Land to which this Policy applies may be subdivided, but only with consent.*

*(2) However, consent is not required for a subdivision for the purpose only of any one or more of the following:*

*(a) widening a public road,*

*(b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,*

*(c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,*

*(d) rectifying an encroachment on a lot,*

*(e) creating a public reserve,*

*(f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.*

*Note.*

*If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.*

*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 specifies certain subdivision development as exempt development.*

Comment:

There is no minimum lot size applicable.

The consolidation of lots as proposed does not require development consent.

The proposed creation of a Strata Plan over the completed development is permissible pursuant to this clause and consideration of clause 24 of the SEPP.

The proposal relates to strata subdivision of the completed industrial complex involving the allocation of spaces within building walls and

external of the building as common property and/or spaces forming part of unit entitlement.

No new Torrens Title lots will be created as a result of the proposed development. In contrast the applicant proposes to consolidate two lots as part of the application thus fully utilising remaining land parcels north of the creek.

**Clause 18** of the SEPP outlines the requirement for development control plans as follows: -

*(1) Except in such cases as the Director-General may determine by notice in writing to the consent authority or as provided by clause 19, the consent authority must not grant consent to development on any land to which this Policy applies unless a development control plan has been prepared for that land.*

*(2) The requirements specified in Schedule 4 apply in relation to any such development control plan.*

*(3) For the purposes of section 74D (3) of the Act, a development control plan that is required by this clause may be prepared and submitted by 60% of the owners of the land to which the plan applies.*

*(4) The Minister is authorised, for the purposes of section 74D (5) (b) of the Act, to act in the place of the relevant planning authority in accordance with that section.*

*(5) Without limiting subclause (2), if a development control plan is required to be prepared for part of a precinct only, the development control plan must:*

*(a) demonstrate the manner in which it integrates with planning for the whole of the precinct, and*

*(b) take into account any other development control plans applying to the precinct.*

*(6) For the purposes of this clause, a development control plan is taken to have been prepared for so much of the land to which this Policy applies as is identified as the "Erskine Park Employment Area" under the Penrith Development Control Plan 2006 (approved 21 August 2006 and as in force on 15 December 2006).*

**Comment:**

Penrith DCP 2014 applies to the site. The applicable parts of the DCP applying to the land include the special area controls and the transport and parking controls. The subject land is identified as being within the Erskine Business Park locality. The special area DCP controls are discussed under Section 5.0 of this SEE.

**Clause 20** of the SEPP relates to Ecologically sustainable development and states the following:

*The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that the development contains measures designed to minimise:*

- (a) the consumption of potable water, and*
- (b) greenhouse gas emissions.*

Comment:

The proposed development is designed to accommodate typical small business uses, which are not involved in excessive consumption of potable water or emission of green house gases.

**Clause 21** of the SEPP relates to Height of buildings and states the following:

*The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that:*

- (a) building heights will not adversely impact on the amenity of adjacent residential areas, and*
- (b) site topography has been taken into consideration.*

Comment:

A maximum building height for the zone has not been specified.

The subject site is suitably distant from residential properties.

The subject site offers a reasonably level building platform.

The subject buildings maintain a typical 2 storey building height which is consistent with built form in the industrial precinct. No issues arise in terms of building height.

**Clause 22** of the SEPP relates to Rainwater harvesting and states the following:

*The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that adequate arrangements will be made to connect the roof areas of buildings to such rainwater harvesting scheme (if any) as may be approved by the Director-General.*

Comment:

Rainwater harvesting forms part of the design process.

**Clause 23** of the SEPP relates to Development adjoining residential land and states the following:

*(1) This clause applies to any land to which this Policy applies that is within 250 metres of land zoned primarily for residential purposes.*

*(2) The consent authority must not grant consent to development on land to which this clause applies unless it is satisfied that:*

*(a) wherever appropriate, proposed buildings are compatible with the height, scale, siting and character of existing residential buildings in the vicinity, and*

*(b) goods, plant, equipment and other material resulting from the development are to be stored within a building or will be suitably screened from view from residential buildings and associated land, and*

*(c) the elevation of any building facing, or significantly exposed to view from, land on which a dwelling house is situated has been designed to present an attractive appearance, and*

*(d) noise generation from fixed sources or motor vehicles associated with the development will be effectively insulated or otherwise minimised, and*

*(e) the development will not otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting or the like, and*

- (f) the development will provide adequate off-street parking, relative to the demand for parking likely to be generated, and*
- (g) the site of the proposed development will be suitably landscaped, particularly between any building and the street alignment.*

Comment:

The subject site at its closest point is approximately 246m away from the closest residential properties to the north. As evident from the image below the proposed development will not be visible or noticeable from the residential properties given the distance separating the site, the change in topography and the low scale nature of the proposed development.



**View of the site from the closest residential property to the north**

**Clause 24** of the SEPP relates to Development involving subdivision and states the following:

*The consent authority must not grant consent to the carrying out of development involving the subdivision of land unless it has considered the following:*

- (a) the implications of the fragmentation of large lots of land,*

- (b) whether the subdivision will affect the supply of land for employment purposes,*
- (c) whether the subdivision will preclude other lots of land to which this Policy applies from having reasonable access to roads and services.*

comment:

The proposed consolidation of the two sites has the effect of utilising all available land and not isolating land parcels.

Upon completion the proposed development will attract 30 tenants and generate employment directly and indirectly. The creation of a Strata Plan over the industrial unit complex empowers small business operators with ownership and autonomy to make decisions and derive an investment in the business and property. Such is crucial to the success of the development, the ability to compete and attract investors.

The proposed consolidation of sites improves vehicle access opportunities from the respective main roads.

**Clause 25** of the SEPP relates to Public utility infrastructure and states the following:

*(1) The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.*

*(2) In this clause, public utility infrastructure includes infrastructure for any of the following:*

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the supply of natural gas,*
- (d) the disposal and management of sewage.*

*(3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this clause.*

Comment:

The subject site is adequately serviced by existing utility services.

**Clause 26** relates to Development on or in vicinity of proposed transport infrastructure routes and states the following:

*(1) This clause applies to any land to which this Policy applies that is situated on or in the vicinity of a proposed transport infrastructure route as shown on the Transport and Arterial Road Infrastructure Plan Map.*

*(2) The consent authority must refer to the Director-General of the Department of Planning any application for consent to carry out development on land to which this clause applies.*

*(3) The consent authority must, before determining any such development application, consider any comments made by the Director-General as to the compatibility of the development to which the application relates with the proposed transport infrastructure route concerned.*

Comment:

Erskine Park Road and Lenore Drive are identified as main roads and transport infrastructure routes.

Referral of the application is therefore required *to the Director-General of the Department of Planning.*

**Clause 30** of the SEPP relates to Controls relating to miscellaneous permissible uses and states the following:

*(1) Industrial retail outlets If development for the purposes of an industrial retail outlet is permitted under this Policy, the retail floor area must not exceed:*

*(a) 20% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or*

*(b) 400 square metres, whichever is the lesser.*

Comment:

Noted and the use may be considered at the use of buildings stage of the development.

**Clause 31** of the SEPP relates to Design principles and states the following:

*In determining a development application that relates to land to which this Policy applies, the consent authority must take into consideration whether or not:*

- (a) the development is of a high quality design, and*
- (b) a variety of materials and external finishes for the external facades are incorporated, and*
- (c) high quality landscaping is provided, and*
- (d) the scale and character of the development is compatible with other employment-generating development in the precinct concerned.*

Comment:

Please refer to **Appendix B** which includes an Architect's design statement confirming the design rationale and outcomes.

The proposal is appropriate in terms of design and support for the design was gained from the Urban design team.

**Clause 32** of the SEPP relates to Preservation of trees or vegetation and states the following:

- (1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.*
- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made under Division 6 of Part 3 of the Act.*

*Note.*

*Any such development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.*

- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:*
  - (a) development consent, or*
  - (b) a permit granted by the Director-General as the relevant planning authority for the purposes of Division 6 of Part 3 of the Act.*
- (4) This clause does not apply to a tree or other vegetation that the relevant council or the Director-General (as the relevant planning authority for the purposes of Division 6 of Part 3 of the Act) is satisfied:*

- (a) is dying or dead and is not required as the habitat of native fauna, or*
- (b) is a risk to human life or property.*
- (5) This clause does not apply to or in respect of:*

- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the Native Vegetation Act 2003 or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or*
- (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the Native Vegetation Act 2003) that is authorised by a development consent under the provisions of the Native Vegetation Conservation Act 1997 as continued in force by that clause, or*
- (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the Forestry Act 1916, or*
- (d) action required or authorised to be done by or under the Electricity Supply Act 1995, the Roads Act 1993 or the Surveying Act 2002, or*
- (e) plants declared to be noxious weeds under the Noxious Weeds Act 1993.*

**Comment:**

Noted. The subject site is essential devoid of established trees. A substantial landscape planting scheme however will form part of the application and is to include a depth of planting within the building alignment of both main roads.

## **5.0 PENRITH DEVELOPMENT CONTROL PLAN 2014**

### **5.1 Weight to be Given to a DCP**

The NSW Planning Circular PS 13-003 provides the following advice on recent legislative changes to the purpose, status and content of DCPs:

*When DCPs were first introduced around 30 years ago, they were intended to be flexible guidelines which complemented the controls provided by a local environmental plan (LEP). A council's LEP is a legal document which is meant to be the primary instrument to guide local development.*

*Following a number of recent court cases, councils have felt obliged to treat DCPs as inflexible and rigid rule-books which must be consistently applied when considering development applications. This has caused delays and added to the complexity of the planning system.*

*DCPs are increasingly containing controls which are not consistent with those in the council's LEP. This adds significantly to development assessment times and red tape in the planning system.*

*These provisions change the way a consent authority (in most instances the council) is to consider a DCP when assessing a development application.*

*The objectives of the changes are to:*

*-reinforce the purpose and status of DCPs as guidance documents used in local planning decision-making, and*

*-introduce flexibility in the way in which provisions in DCPs are applied by consent authorities when assessing development applications.*

Comment:

The Amendment Act makes it clear that the principal purpose of a DCP is to provide guidance to a consent authority and to people who are proposing to undertake development on land to which the DCP applies.

The following provides an assessment of the proposal in reference to the provisions of the DCP insofar as they can be 'reasonably applied' to the circumstances of the development proposal.

## **E6 Erskine Business Park**

**Clause 6.2 of the DCP relates to Subdivision and states the following:**

### ***A. Objectives***

*a) To achieve maximum flexibility for siting and location of buildings and to achieve an appropriate density of development;*

*b) To provide opportunities for parcels of land of varying size and dimensions to satisfy market demand and the needs of the development industry;*

*c) To ensure that subdivision design takes into account biodiversity considerations and facilitates minimum impact development to protect remnant native vegetation on the site and on adjoining land;*

*d) To preserve the natural topography and physical characteristics of the land;*

*e) To provide opportunities for large lot subdivision;*

*f) To ensure that development occurs in a logical and staged manner;*

*g) To minimise the number of road entry points to designated roads and the northern access road, thereby allowing more efficient traffic management;*

*h) To create the opportunity for "individual" design solutions and innovative and efficient subdivision layout;*

*i) To create opportunities for large land parcels to be developed in a co-ordinated, unified manner, featuring elements such as a common landscape theme/treatment, similar architectural treatments, and where possible, shared parking areas; and*

*j) To protect, restore and enhance riparian corridors.*

### ***B. Controls***

*1) Lots fronting biodiversity areas or corridors are required to have on-site drainage controls in accordance with this section to prevent nutrient and erosion impacts on the bushland.*

*2) Lot design should maximise the conservation of the natural features of the site including important fauna habitats, rare or threatened plant habitats, and designated biodiversity areas.*

*3) Lots adjoining or containing watercourses are required to maintain or establish native vegetation riparian zones.*

*4) Perimeter roads are desirable from the point of view of bushfire control but may not be feasible if site disturbance is to be minimised.*

Comment:

As stated previously, the application is for the consolidation of two lots and the eventual Strata subdivision of the built form.

The proposed design and Strata subdivision offers the necessary flexibility to achieve the desired density and satisfy market demand.

A varied size of Strata lot can be achieved to assist in meeting market demand and offer a range of affordability and client requirements.

The proposed design and Strata subdivision minimises the number of vehicle entry points to one per main road. Such is the desired outcome and removes existing crossovers/access points.

The proposed design and Strata subdivision achieves an efficiency of built form relative to landscape content and access arrangements on-site. Further all remaining lots capable of being developed are taken up with this application.

**Clause 6.3.1 of the DCP relates to Height and states the following:**

***A. Objectives***

*a) To encourage building forms that respond to the topography of the site and the relative position of the allotment to other allotments and the street;*

*b) To ensure a scale of buildings which minimises the impact of development on adjoining residential areas; and*

*c) To minimise the impact of development on views from adjoining residential areas.*

***B. Controls***

*1) The maximum height for buildings and structures in the Northern Area shown in Figure E6.1 shall not exceed 12m.*

- 2) *The maximum height for buildings and structures in the Southern Area shown in Figure E6.1 shall not exceed 15m.*
- 3) *Generally, buildings should be sited on mid-slope to avoid visual impact on ridges and to be in harmony with the existing landscape.*
- 4) *On sloping sites, the building or buildings should be designed, where possible, so as to "step" physically up or down the site to avoid visual impact on ridges.*

**Comment:**

The proposed development is predominantly two storey in height including high span industrial units, which accord with the SEPP 2007 maximum building height considerations of 12m.

**Clause 6.3.2 of the DCP relates to Site Coverage and states the following:**

**A. Objectives**

- a) *To limit the density of development; and*
- b) *To encourage the provision of open space and landscaping on development sites, consistent with the landscape objectives in the Landscape Design of this Plan.*

**B. Controls**

- 1) *Site coverage shall not exceed 50%.*
- 2) *Where land is included in Biodiversity Conservation Areas or Electricity Transmission Line Easements, that land can be included in site coverage calculations.*

**Comment:**

The proposal is able to accord with the site coverage controls of the DCP having a maximum site coverage of 42%.

**Clause 6.3.3 of the DCP relates to Setbacks and states the following:**

**A. Objectives**

- a) *To provide an open streetscape with substantial areas for landscaping; and*
- b) *To enhance the visual quality of development and the urban landscape.*

**B. Controls**

1) *The setback standards are outlined in the table below. Where the property has frontage to more than one road, Council will consider a variation to setbacks on the secondary road frontage, as shown in Table E6.2 below.*

<i>Northern Access Road (Lenore Drive and Erskine Park Link Road to Westlink M7)</i>	<u><i>20m</i></u>
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<i>Other Road Frontages</i>	<u><i>15m</i></u>
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<i>Rear and Side Boundaries</i>	<u><i>5m</i></u>
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<i>Boundaries Adjacent E2 Environmental Conservation zone along the Ropes Creek Corridor.</i>	<u><i>10m</i></u>
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2) *Notwithstanding Control (1) above, no development other than the following development is permitted within the defined setback for any road, other than Lenore Drive, Mamre Road and Erskine Park Road:*

a) *Car parking*

b) *landscaping in accordance with the provisions of the Landscape Design Section of this Plan;*

c) *maintenance/rehabilitation of biodiversity corridors or areas in accordance with the provisions of the Vegetation Management Section of this Plan;*

d) *utility services installation;*

e) *accessways and driveways (not permitted in setbacks to designated roads);*

f) *approved signage;*

g) *street furniture; and*

h) *drainage works.*

3) *Notwithstanding Control (2) above, Council may consider a variation to permit car parking within part of the setbacks to Erskine Park Road and*

*Lenore Drive for 1 – 23 Lenore Drive, Erskine Park (Lot 1, DP 1071114), which is the site on the corner of Erskine Park Road and Lenore Drive. Council shall consider the type and scale of the development when assessing any such request for variation to either building or car parking setbacks.*

**Comment:**

Substantive landscaped setbacks are proposed to the 2 main road frontages allowing for the orderly and economic development of the triangular shaped site.

The setback areas are to incorporate a high degree of landscaping and coupled with the road verge provide sufficient separation between built form and the roadway, particularly as the site sits lower than the roadway.

On averaging, the proposed setbacks are appropriate given the low scale nature of the development. With regards to the rear setback to the creek and vast surrounds, 2m is proposed allowing for an emergency access route on-site and simple built form facing the creek environs with pockets of landscaping. Council has ensured with the development of the creek and surrounds that substantial green space is proposed to protect the creek and assist with its landscape generation. No further setback on the subject site is considered necessary given the expanse of land to the south.



**View of southern boundary and adjoining creek and rehabilitated green corridor**

**Clause 6.3.4 of the DCP relates to Urban Design and states the following:**

**A. Objectives**

- a) To encourage a high standard of architectural design, utilising quality materials and finishes;*
- b) To establish varied and articulated frontages facing or visible from public roads;*
- c) To minimise perceived scale and mass and to prevent monotonous building forms resulting from poor design of walls or rooflines; and*
- d) To ensure that new development contributes to the creation of a visually cohesive urban environment.*

**B. Controls**

**Architectural/Design**

- 1) In assessing development proposals, Council will have regard to the quality of building design and materials (type and colour).*
- 2) Prominent elevations, such as those with a frontage to the street or public reserves or those that are visible from public areas, must present a building form of significant architectural and design merit. The construction of large, blank wall surfaces is not permitted.*
- 3) Large unrelieved expanses of wall or building mass will not be supported by Council, and as such should be broken up by the use of suitable building articulation, fenestration or alternative architectural enhancements.*
- 4) The use of large, uninterrupted areas of metal cladding or untreated concrete surfaces for wall construction is not supported. Applicants shall vary materials or finishes for external walls to provide attractive streetscapes and quality building designs. Council may limit the use of a single construction material to 50% of a wall surface area.*
- 5) All loading areas should be located towards the rear of allotments. Where possible, loading areas should be screened from the view of main road frontages through physical and/or vegetation screening.*
- 6) Details of samples of external materials and finishes shall be submitted with the Development Application.*
- 7) External materials should not have an index of reflectivity above 20%.*
- 8) Energy efficient design principles should be employed in all building designs.*
- 9) Walls shall be articulated to provide more varied streetscapes, where visible from public roads or adjacent residential areas.*

- 10) *Part of the cross-section of buildings shall be projected to reduce apparent height and scale of external walls, including:*
- a) awnings and/or upper storeys that project above footpaths;*
  - b) roofs with eaves that project beyond external walls;*
  - c) colonnades.*
- 11) *Entrances to buildings must be highlighted by architectural features consistent with the overall design of the building.*
- 12) *Particular care should also be taken in:*
- a) designing roof elements; and*
  - b) locating plant and mechanical equipment including exhausts, so as to reduce their visual impact from elevated locations.*
- 13) *External material colours to be consistent with the following palette of colours developed for Erskine Business Park:*
- a) Earth Tones - stone colours, browns, muted greens, sand, dark red/plums; and*
  - b) Cool Tones - soft greys, grey/blues.*

**Comment:**

Appropriate architectural finishes can be incorporated so as to present well to the streets. A unique and attractive built form has been developed, which will contribute to the locality in terms of aesthetic appeal.

**Clause 6.3.5 of the DCP relates to Signage and Estate Entrance Walls and states the following:**

***A. Objectives***

- a) To promote an integrated design approach to all signage in character with the locality and its architectural and landscape features;*
- b) To provide a quality entrance statement and signage at each of the entrance points to the Estate;*
- c) To prevent the proliferation of signs;*
- d) To minimise the visual impact of signage;*
- e) To prevent distraction to motorists and minimise the potential for traffic conflicts;*

- f) To permit the adequate display of information concerning the identification of premises, the name of the occupier and the activity conducted on the land; and*
- g) To encourage a coordinated approach to advertising where multiple occupancy of sites occur.*

### **B. Controls**

*1) Signage on individual allotments will be required to comply with the provisions of the Advertising and Signage Section of this Plan.*

*2) In addition, all advertising is required to be:*

- a) constructed of high quality, durable materials;*
- b) considered in conjunction with the design and construction of buildings;*
- c) restricted generally to one sign identifying the name of the occupants and/or products manufactured or produced on the site; and*
- d) contained wholly within the site.*

*3) Decorative masonry entrance walls and high quality Estate signage (indicating the name of the Estate) shall be provided, as shown on Figure E6.11 – Erskine Business Park Traffic Works, at the following entrance points to Erskine Business Park:*

- a) the intersections of Mamre Road and Erskine Park Road;*
- b) on Erskine Park Road for south-bound traffic leaving the Erskine Park residential area;*
- c) the intersection of Mamre Road and the proposed Western Access Road; and*
- d) on Lenore Drive at the future eastern entrance to the estate at Ropes creek when the link to the Western Sydney Orbital is constructed.*

*4) The entrance walls and signage referred to in Control (3) above are to be funded by contributions levied under the Contributions Plan for Erskine Business Park.*

*The proposed works for the Ropes Creek entrance to the estate will, however, be funded by a separate, second account within the Contributions Plan for this Estate.*

5) *Any business directory signage installed by developers shall be of a high quality and shall have a consistent design throughout the Estate.*

6) *The official name of the Estate shall be determined by Council in conjunction with the landowners/developers and shall be utilised in a marketing/promotions campaign for the Estate.*

Comment:

A detailed signage scheme will be developed upon approval of the application and tenancy take-up.

A separate development application will be submitted for signage structures and tenancy identification.

**Clause 6.4.5 of the DCP relates to Trading/Operating Hours of Premises and states the following:**

**A. Objectives**

a) *To ensure the amenity of adjoining residential and rural areas is preserved; and*

b) *To ensure development is provided the flexibility in trading/operating hours to ensure it is competitive and productive.*

**B. Controls**

1) *Construction works (all development) shall generally be restricted to the following hours:*

a) *Monday to Friday, 7.00 a.m. to 6.00 p.m.*

b) *Saturday, 7.00 a.m. to 1.00 p.m.*

c) *No work on Sundays or Public Holidays*

2) *The hours of operation for premises involved in any type of employment generating activity shall be dealt with on a merits basis. Council appreciates that because of the nature of certain activities shift work may be essential to the viability of the development.*

3) *In considering applications Council shall have regard to the likely impact of the trading hours of a particular activity on the amenity of adjoining residential and rural areas.*

**Comment:**

Noted.

**Clause 6.6 of the DCP relates to Transport Network and states the following:**

**A. Objectives**

- a) *To create a road network which enables a safe and efficient access for all users, while minimising through traffic on minor roads;*
- b) *To incorporate sustainable landscape and drainage opportunities in the design of the transport network;*
- c) *To encourage the use of efficient alternate transport, including public transport, bicycles, and pedestrians;*
- d) *To provide traffic facilities to give safe and efficient access to Mamre Road and Erskine Park Road;*
- e) *To provide for a future road link to the Westlink M7 and to provide all properties within this estate a direct connection to this link road;*
- f) *To minimise the number of road entry points to designated roads and the northern access road thereby allowing more efficient traffic management;*
- g) *To maintain the capacity of the State Arterial Roads (Erskine Park and Mamre) by minimising the number of access points; and*
- h) *To provide better connectivity between Erskine Business Park and other parts of WSEA.*

**B. Controls**

**Internal Road System**

- 1) *The two main access roads to Erskine Business Park indicated in Figure E6.11 are:*
  - a) *Lenore Drive (Northern Access Road)*
  - b) *James Erskine Drive (Western Access Road)*
- 2) *Access Road.*
- 3) *The internal road system shall be provided in accordance with the principles and requirements set out below.*
- 4) *Access points shall be located so as to optimise safety, traffic flow and landscape opportunity. The Northern Access Road shall be access controlled such that:*

*a) **North of Northern Access Road (existing location of Lenore Drive):** Access to Lenore Drive will be limited to one access point per lot. Upon redevelopment, the access point for Lot 5A, DP162129 shall be combined with one of the adjoining lots.*

*b) **South of Northern Access Road:** Access to Lenore Drive shall be limited to the three points as shown on Figure E6.10 of this Section.*

*5) All parking shall be provided either on site or in centralised off-road locations.*

*6) Upgrading of Erskine Park Road and Mamre Road shall be undertaken to accommodate the increases in traffic generated by this development.*

*7) Direct vehicular access to Mamre Road shall only be permitted at the signalised intersections with Erskine Park Road and the James Erskine Drive. Direct vehicular access to Erskine Park Road shall only be permitted at the signalised intersection to Lenore Drive and at one combined intersection for the property north of Erskine Park Road and the eastern block for Lot 16 DP259146. No other direct vehicular access to these designated roads will be permitted.*

*8) All intersections within the internal road network shall incorporate traffic facilities, which promote safe and efficient traffic movement.*

*9) The proponent shall have regard to "Guide for Traffic Generating Development", Roads and Traffic Authority of NSW, October 2002.*

*10) Development shall, where appropriate, be designed to:*

*a) Allow all vehicles to either leave or enter the site in a forward direction;*

*b) Accommodate heavy vehicle parking and manoeuvring areas;*

*c) Avoid conflict with staff, customer and visitor vehicular movements; and*

*d) Ensure satisfactory and safe operation with the adjacent road system.*

*11) Full details of the volume, frequency and type of vehicle movements shall be submitted with the development application.*

*12) In general:*

*a) Turning circles will be required to be provided to accommodate the largest type of truck which could reasonably be expected to service the site*

*b) All developments must be designed and operated so that a standard truck may complete a 3-point or semi-circular turn on the site without interfering*

*with parked vehicles, buildings, landscaping or outdoor storage and work areas; and*

*c) Large-scale developments shall be designed to accommodate semi-trailers. In the case of the conversion of an existing development, should it appear that a truck turning circle may prove difficult; a practical demonstration may be required.*

*13) Council will assess the suitability of manoeuvring areas provided for large vehicles by reference to Australian Standard 2890 series.*

*14) Adequate space is to be provided within the site for the loading, unloading and fuelling (if applicable) of vehicles. These areas shall be screened from the road.*

**Comment:**

The proposed development has been suitably designed to ensure the driveway access points are as far away from the intersection of the main roads as possible and sight lines are maximised.

The internal driveway as been appropriately designed to accommodate truck and car movements within the development and to ensure all vehicles can leave the site in a forward direction.

Adequate loading and unloading facilities are provided in each industrial unit and surplus car parking is provided in a basement. The parking layout and manoeuvring opportunities are provided in accordance with Australian Standard 2890.

**Clause 6.9 of the DCP relates to Landscape Areas and states the following:**

**6.9.1 Objectives**

*a) To provide functional areas of planting that enhance the presentation of a building;*

*b) To screen undesirable views;*

*c) To reduce building energy consumption;*

*d) To provide outdoor staff amenity facilities;*

*e) To select tree species that are “low maintenance” planting to reduce the impact of green waste;*

- f) To provide wildlife habitats; and*
- g) To contribute to the overall character of the locality.*

Comment:

A detailed landscape planting scheme is proposed with the application to compliment the built form and enhance the aesthetic appearance of the site, particularly along the main road frontages as encouraged by Council urban design team. In particular the northern and main road frontages of the site include a depth of planting which will assist in offsetting the mass of road networks and hard surfacing on-site.

The depth of planting provides opportunity for a varied layer of planting to suitably screen and compliment the built form.

Please refer to the landscape plan.

**Clause 6.9.2 of the DCP relates to Controls Selection and Use of Planting Material and states the following:**

- 1) A framework planting of endemic canopy and shrub species is to be established for all developments. This will enhance the sense of place for each development site. Consideration to be given to features such as bird attracting qualities, aromatic foliage and flowers, and habitat value as well as visual qualities, site suitability, and proximity to biodiversity corridors or areas. Habitat value is to be given high priority.*
- 2) Smaller scale and less visually prominent planting may include species other than those endemic to the area. This will produce variety and interest in the landscape at this scale. This does not apply to development adjoining Biodiversity Areas or within or adjoining Biodiversity Corridors.*
- 3) Property entrances may be highlighted with feature planting, and need not be limited to native or endemic species. No plant species shall be used on site that could become a weed within remnant bushland areas or creek lines.*
- 4) Plant species should be carefully selected to meet service authority requirements in easement locations.*
- 5) Plant material in car parks should be used to provide shade, ameliorate views of large expanses of paved areas and cars, and to identify entrances to car parks.*

6) *Trees providing shade in car parks should be given sufficient area for root development.*

7) *Narrow strips of landscaped area between an allotment boundary and building, or between parking areas and a building should be avoided.*

8) *Island planting beds should be interspersed throughout large parking areas. Planting should consist of ground covers, shrubs to 1m, shade producing and canopy species.*

9) *Plant material shall be a mix of super-advanced, advanced and normal nursery stock that will provide a quick effect especially in visually prominent areas. Larger plant sizes would be appropriate in some locations.*

**Comment:**

Please refer to the landscape plan.

**Clause 26 of the DCP relates to Development on or in vicinity of proposed transport infrastructure routes and states the following:**

*(1) This clause applies to any land to which this Policy applies that is situated on or in the vicinity of a proposed transport infrastructure route as shown on the Transport and Arterial Road Infrastructure Plan Map.*

*(2) The consent authority must refer to the Director-General of the Department of Planning any application for consent to carry out development on land to which this clause applies.*

*(3) The consent authority must, before determining any such development application, consider any comments made by the Director-General as to the compatibility of the development to which the application relates with the proposed transport infrastructure route concerned.*

**Comment:**

This clause is no longer applicable to the subject site with the Erskine Park Link Road and Lenore Drive upgrade now complete.

## 6.0 **SECTION 4.15 CHECKLIST**

The following provides an summary of the proposal against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

*(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*(a) the provisions of:*

*(i) any environmental planning instrument, and*

*(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

*(iii) any development control plan, and*

*(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*

*(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*

*(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*

### **Comment:**

SEPP 55 Remediation of Land- A phase 1 contamination report accompanies the application.

### SEPP (infrastructure) 2007

The subject site fronts two main roads.

The proposed industrial development is appropriate for the site subject to consideration of the matter by RMS.

*(b) The likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality.*

**Comment:**

The proposed development will complement the existing built environment within the industrial zone.

The proposal has substantial streetscape appeal given the high level of landscape content proposed and architectural treatment of facades.

The proposal provides for diversity in industrial unit size and affordability.

The proposed development will complete the land 'puzzle' in the precinct with an appropriate built form which generates economic and social benefits. The site is essentially devoid of significant vegetation and will suitably flank the green corridor to the south.

*(c) The suitability of the site for the development.*

**Comment:**

The proposal provides for the orderly redevelopment of the land.

The subject land by virtue of its proximity to support services and public transport is ideally suited to an industrial development.

The subject land has an area and configuration, which is suitable for the development proposed.

*(d) Any submissions made in accordance with the Act or the regulations.*

**Comment:** Nil

*(e) (e) the public interest.*

*Note.*

*See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.*

**Comment:**

The proposal will not necessitate the investment of public money or have a significant adverse effect on a public place. The development proposes substantial improvements to the public domain.

The proposed development is supportive of State government urban renewal initiatives.

*(2) Compliance with non-discretionary development standards—development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:*

*(a) is not entitled to take those standards into further consideration in determining the development application, and*

*(b) must not refuse the application on the ground that the development does not comply with those standards, and*

*(c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,*

*and the discretion of the consent authority under this section and section 4.16 is limited accordingly.*

*(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:*

*(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and*

*(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.*

*Note.*

*The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).*

Comment:

Not applicable.

*(3A) Development control plans If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:*

*(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*

*(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*

*(c) may consider those provisions only in connection with the assessment of that development application.*

*In this subsection, standards include performance criteria.*

**Comment:**

The development control plan has been considered in the preparation of the design. Given the challenges of the site in terms of topography, site configuration, and relating to vehicle access, a development has been generated, which meets the intent of the DCP.

*(4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.*

*(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).*

*(6) Definitions In this section:*

*(a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and*

*(b) non-discretionary development standards means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.*

**Comment:**

Not applicable.

## **7.0 CONCLUSION**

The proposed design has been derived after much consultation with Council officers and Council's urban design panel.

The proposal includes rather than isolates Council land ensuring that all available land is optimised.

The proposed design incorporates architectural interest to address the respective main roads and includes a high level of landscape content within the respective building alignments.

The proposed development achieves compliance with key controls of the LEP and DCP guidelines.

The proposed development is consistent with the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

The proposed development has architectural and town planning merit and approval of the application is therefore recommended.