

Our reference: P-454606-S0K1
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13 March 2023

Department of Planning and Environment
Attn: Shaun Williams

Email: shaun.williams@dpie.nsw.gov.au

Dear Shaun,

**Modification Application – SSD-10101987 – Kemps Creek Data Centre
Response to Submissions (RtS)**

Thank you for providing Penrith City Council with the opportunity to comment on the abovementioned response to submissions (**RtS**) documentation.

1. Planning matters

(a) Open Space Edge Road to be Dedicated as Public Road

The Mamre Road Precinct DCP (**MRP DCP**) identifies a local 'open space edge' road is to be provided through the Estate (Kemps Creek Estate/The Yards) adjacent to the open space (RE1/2) zone interface. The open space edge road is to be treated as per the local industrial road and is to be delivered the same way, by each developer, as development occurs.

The open space edge road is not funded by Council's contributions plan and is not funded by the Microsoft/Datacentre Draft Planning Agreement nor the executed Planning Agreement applying to the Kemps Creek Estate. The edge road is identified in the MRP DCP as being wholly within the IN1 General Industrial zoned land.

The Department of Planning and Environment (**DPE**) is to ensure that the portion of the open space edge road that is identified in the DCP as passing through the subject Site, is constructed and dedicated as public road, as part of the development.

This portion of the road is crucial in allowing connection of the edge road from GPT (to the south) through the Altis/Fraser owned land to the north.

It has been confirmed in a recent meeting with Altis/Frasers, that the edge road will be provided through The Yards development and the detail is currently being worked through. The edge road will also be delivered by GPT to the south.

The portion of the edge road within the data centre site must be delivered noting also, that the site is in separate ownership.

DPE is advised to ensure that the road is designed, constructed, and delivered as a public road. The design must be free of retaining walls or



other encumbrances, and the design dedication is to be in accordance with Council's civil design standards.

DPE must require the delivery of the open space edge road for the additional reasons detailed below:

- The data centre is in separate ownership and there will be no future opportunity to require the road delivery.
- The edge road is required to ensure that the aims and objectives of the Western Sydney Aerotropolis Plan (**WSAP**) and the Mamre Road Precinct DCP (**MRP DCP**) are met, including those related to attractive and activated open spaces. The WSAP identifies Mamre Road Precinct and an initial precinct within the Aerotropolis.
- The edge road will ensure access to waterways and cultural significant places for first nations people, supportive of connecting with country framework, including Better Placed, Draft Connecting with Country document (Issue no. 1 – 2020) and DPEs own Recognise Country Guideline.
- The edge road delivery is essential to enable a northern connection from land to the south up through the GPT site and The Yards (Kemps Creek Estate), allowing a connection to the signalised intersection with Mamre Road (near Bakers Lane).
- The road is essential in ensuring public access is provided to the identified future open space (and to enable Council access for maintenance).
- The edge road will provide an essential separated light vehicle access through the western section of the Precinct.
- The open space edge road is needed to provide access to the regional basins for Sydney Water, who have confirmed maintenance access has been from the public open space edge road identified in the DCP and is necessary and will avoid the need for easements over private property.
- The Connecting to Country report acknowledges the importance of access to culturally significant lands to the east of the data centre, for Aboriginal people, yet the proposal does not deliver this access.

A condition of consent may be imposed, should consent be granted, requiring confirmation of the intent to dedicate the section of road as public road, and that the design detail to be provided to Penrith City Council for its review and approval prior to the issue of the Construction Certificate.

Council is able to review draft conditions, should the above be included.

DPE to ensure that compensatory planting along the southern elevation is provided to the open space edge road and that planting in the edge road is not relied upon for screening or canopy targets.

(b) Fire Safety

- Habit8 plan L02 includes a dashed line which is noted as being the fire truck access driveway. Should this driveway be required by NSW Fire and Rescue or through the application of the BCA/NCC, the road must be constructed and delivered as part of the proposed development.

Referral to Fire & Rescue NSW may be required.

2. Landscaping – General

- DPE is to ensure that the artworks and images shown on services and tanks in Section F-F and on other plans and within Reports are finalised and installed, prior to the issue of any Occupation Certificate for the proposed development.

Habit8 Landscape plan - Section F-F, drawing L12, indicates additional service tanks will be provided with images and artworks.

- The Habit8 landscape plan – East elevation – drawing L13 does not include the building beyond. This is essential in understanding if the tree planting and other landscaping will be effectual in moderating and screening the bulk and scale of the building.
- It is recommended that the Habit8 landscape plan set be updated to reflect the additional artwork commitments identified on the larger service tanks (noted as IWT and RWT) adjacent to the south-western elevation (refer Habit8 landscape plan L12, revision J).
- It is unclear if artwork is proposed on all 4 tanks in this area or only two. It is also unclear if the applicant proposes to provide artworks or images on the service tanks along the northern road frontage, as was originally proposed. The artwork in this location has a contextual relationship with the proposed driveway etchings.
- It is noted that the height of each service tank is not nominated on plans and DPE is to be satisfied that their scale is not detracting in the location, noting the requirement for a public edge road to be delivered along the western RE1 boundary interface. Artworks on tanks are to be nominated on all relevant plans.

Drawing L16, L17 and L19 (revision I) are also to be amended to delete interpretive embellishment and landscaping proposed within the road reserve except for the etched artworks in the heavy and light vehicle driveways (two driveways are to have the etching artworks), details of which must be submitted with plans attached to the relevant Roads Act.



It is recommended that a condition of consent require the detail to accompany the relevant Roads Act / road opening application(s).

The landscape plan no. L12 (Habit8) indicates artworks on tanks. These are to be delivered by the consent.

(a) Species, tree location and sectional detail

- Council's landscape architect has raised concerns around species selection and in relation to the location of trees (suitability and sustainability) and thus it is recommended that that a condition of consent be included, should consent be granted, that requires the final landscape plans for the data centre to be approved by Penrith City Council's Architectural Landscape supervisor, prior to the commencement of any landscape works.
- The landscape plans accompanying the request to satisfy the condition are to include the required connecting with country artwork and interpretive detail for all tanks and driveway crossovers.
- Conditions of consent are to be included requiring the artworks to be completed and delivered prior to the issue of any Occupation Certificate.
- Landscape plan no. L21 (**Figure 4**) indicates tree planting along the whole length of the Site's western boundary. Plans at Figures 1 and 2 indicate minimal planting which will not screen services tanks and the scale of the building.

Tree planting is formally spaced. Tree planting is to include 'stands' and is to include less formal spacings/alignments, noting the maximum spacing requirements under the MRP DCP are to be observed. Plan no. L32 indicates limited tree planting along this same western elevation. Plans are to correlate and tree planting is to be included.



Figure 1: Excerpt from Habit8 plan no. L32

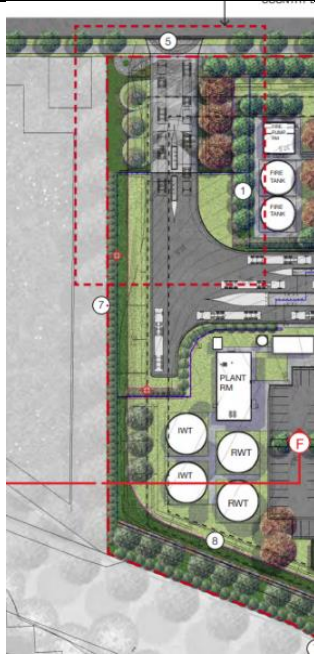


Figure 2: excerpt from Habit8 plan no. L03

DPE are to review the approved basin plan and planting schedule under SSD-9522, to ensure that the planting indicated on Landscape Section F-F (Habit8 plan no. L12 – Figure 3 below) is approved and will be delivered.

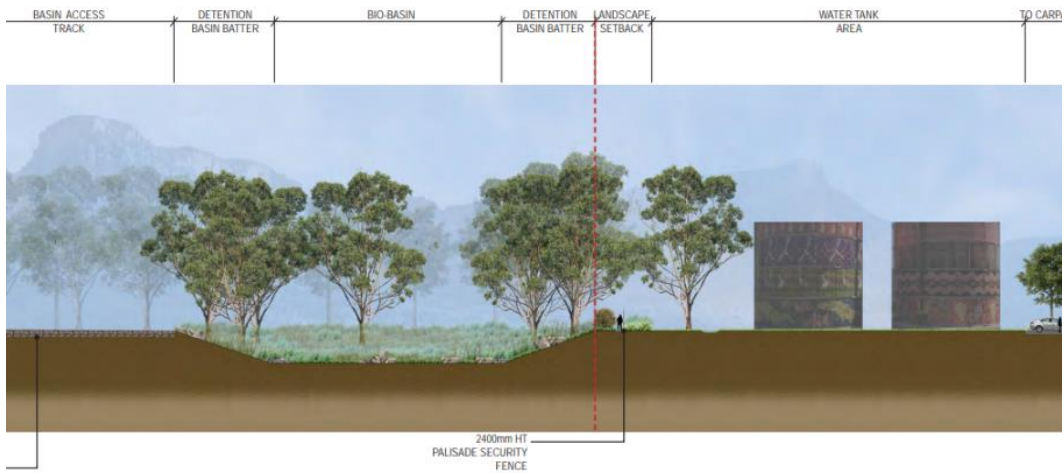


Figure 3 (above) – Landscape Section through Basin 1 - Excerpt from Habit8 plan no. L12 revision J.





Figure 4 (above) – Excerpt from Landscape Plan Set Habit8 – L21

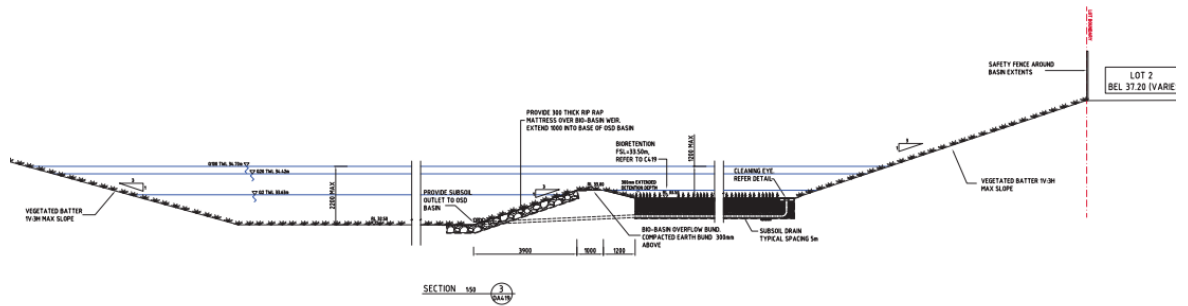


Figure 5 (above) – Civil Section through Basin 1 - Excerpt from approved Costin Roe Civil works plan Sheet 9, revision K.

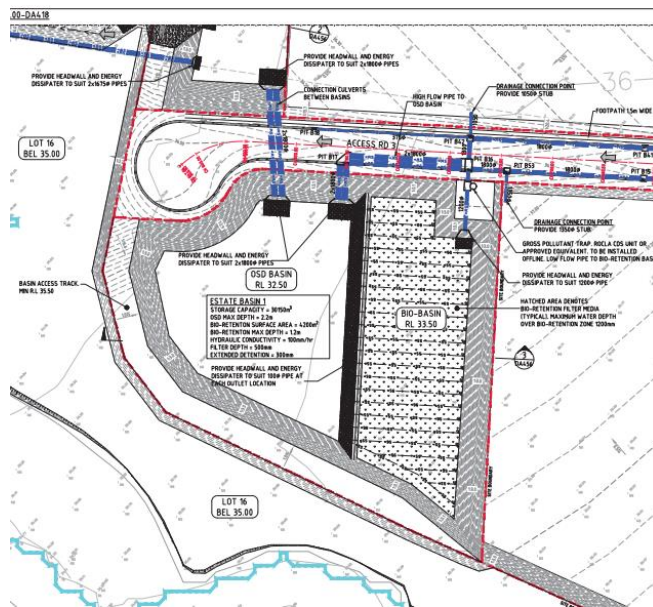


Figure 6 (above) – Basin 1 - Excerpt from approved Costin Roe Civil works plan Sheet 9, revision K.

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

Regards,

Kathryn Saunders
Principal Planner