

**ITEM 4. DEVELOPMENT APPLICATION: 506-518 GARDENERS ROAD AND 200 BOURKE ROAD ALEXANDRIA****FILE NO: D/2014/452****DEVELOPMENT APPLICATION NO: D/2014/452****SUMMARY****Date of Submission:** 3 April 2014**Applicant:** Aurecon**Architect:** Greenbox Architecture**Developer:** Equinix**Owner:** The Trust Company Limited**Cost of Works:** \$177,404,000**Proposal Summary:** The application proposes the internal fit out of a data centre for global enterprises, content companies and network service providers.

The estimated cost of the development is \$177,404,000. This exceeds the threshold (\$50 million) for DAs able to be determined by Council officers under delegation. Accordingly, the application is being reported to the Central Sydney Planning Committee for determination.

The proposal complies with the provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

A development application for the construction of the building shell and core and use as a data centre for global enterprises, content companies and network service providers (D/2014/453) has been determined by Council officers under delegation on 26 June 2014. No fit-out was included as part of this consent.

There were two submissions received during the exhibition period, raising concern with the height of the building and noise and traffic impacts of the development.

**Summary Recommendation:** It is recommended that the application be approved, subject to conditions.

- Development Controls:**
- (i) Sydney Local Environmental Plan 2012
  - (ii) Sydney Development Control Plan 2012

- Attachments:**
- A - Selected Drawings
  - B - Notice of Determination - D/2014/453

**RECOMMENDATION**

It is resolved that consent be granted to Development Application No. D/2014/452, subject to the following conditions:

**SCHEDULE 1A****Approved Development/Design Modifications/Covenants and Contributions/Use and Operation**

**Note:** Some conditions in Schedule 1A are to be satisfied prior to issue of a Construction Certificate and some are to be satisfied prior to issue of Occupation Certificate, where indicated.

**(1) APPROVED DEVELOPMENT**

- (a) Development must be in accordance with Development Application No. D/2014/452 dated 03/04/2014 and the following drawings:

<b>Drawing Number</b>	<b>Architect</b>	<b>Date</b>
SY4-DRG-AR-DA21/ 1	Greenbox Architecture	28/03/2014
SY4-DRG-AR-DA22/ 1	Greenbox Architecture	28/03/2014
SY4-DRG-AR-DA23/ 1	Greenbox Architecture	28/03/2014
SY4-DRG-AR-DA24/ 1	Greenbox Architecture	28/03/2014
SY4-DRG-AR-DA25/ 2	Greenbox Architecture	18/06/2014
SY4-DRG-AR-DA26/ 2	Greenbox Architecture	18/06/2014

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

**(2) COMPLIANCE WITH D/2014/453**

The development must maintain compliance with the conditions of development consent D/2014/453.

**(3) NOISE - GENERAL**

- (a) The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment shall comply with the following:

- (i) The  $L_{Aeq, 15\text{minute}}$  noise level emitted from the use must not exceed the project specific noise level for that receiver as determined in accordance with the NSW EPA Industrial Noise Policy. Noise must be measured in accordance with the Industrial Noise Policy and relevant requirements of Australian Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
  - (ii) Project specific noise levels shall be determined by establishing the existing environmental noise levels, in complete accordance with the assessment  $L_{A90, 15\text{ minute}}$  / rating  $L_{A90, 15\text{ minute}}$  process to be in accordance with the requirements for noise monitoring listed in the NSW EPA Industrial Noise Policy and relevant requirements of Australian Standard AS1055-1997 Standard AS 1055-1997 Acoustics – Description and measurement of environmental noise.
  - (iii) Modifying factors in Table 4.1 of the NSW EPA Industrial Noise Policy are applicable.
- (b) An  $L_{Aeq, 15\text{minute}}$  noise level emitted from the use must not exceed the  $L_{A90, 15\text{minute}}$  noise level by more than 3dB in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed inside any habitable room of any affected residence provided that:
- (i) Where the  $L_{A90, 15\text{minute}}$  noise level is below the threshold of hearing,  $T_f$  at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003- Normal Equal-Loudness-Level Contours then the value of  $T_f$  corresponding to that Octave Band Centre Frequency shall be used instead.
  - (ii) The  $L_{Aeq, 15\text{minute}}$  noise level and the  $L_{A90, 15\text{minute}}$  noise level shall both be measured with all external doors and windows of the affected residence closed.
  - (iii) The relevant background noise level ( $L_{A90, 15\text{ minute}}$ ) is taken to mean the day, evening or night rating background noise level determined in complete accordance with the methodology outlined in the NSW EPA Industrial Noise Policy and Australian Standard AS1055.1997 Acoustics – Description and measurement of environmental noise.
  - (iv) Background noise shall be established in the absence of all noise emitted from the use but with the ventilation equipment normally servicing the affected residence operating. Background noise measurements are to be representative of the environmental noise levels at the affected location.
  - (v) Modifying factors in Table 4.1 of the NSW EPA Industrial Noise Policy are applicable. Internal Noise measurements are not to be corrected for duration.

(4) **COMPLIANCE WITH THE ACOUSTIC REPORT & ADDITIONAL REPORTING & CERTIFICATION REQUIREMENTS PRIOR TO CONSTRUCTION AND OCCUPATION CERTIFICATES**

All performance parameters and recommendations contained in the acoustic report prepared by Aurecon, dated 28th May 2014, revision 03; reference 240131-001, entitled "Equinix SY4 Noise Impact" Statement (the Acoustic DA report) must be implemented during construction stage and verified prior to the use of the premises.

- (a) The proposed use is to comply with **Sections 4, 5 & 6** of the above referenced report.
- (b) The proponent is to engage an Acoustic Consultant at the detailed design stage of the project who shall prepare an Acoustic Design Report to the satisfaction of the Principal Certifying Authority prior to the issue of the Construction Certificate.

The report is to provide specific detail on the exact and final specifications of building construction methodologies and noise emitting articles that will be implemented within the building envelope which will comply with the allocated criteria and meet or exceed the acoustic requirements prescribed in the above sections of the Acoustic DA report. The Principal Certifying Authority is to ensure that the report contains adequate engineering assessment of noise emissions and detail proposed controls such that noise impacts are expected to comply with applicable criteria.

The report is to also review the proposed design in detail and identify necessary acoustic controls that are to be incorporated into the building construction such that it achieves the applicable acoustic requirements of the National Construction Code.

- (c) The proponent is to engage an Acoustic Consultant prior to occupation of the use and completion of the project who shall prepare an Acoustic Verification Report to the satisfaction of the Principal Certifying Authority prior to the issue of the Occupation Certificate.

The report is to provide specific detail including but not limited to noise compliance tests and measurements demonstrating that:

- (i) Noise emissions comply with applicable criteria at the nearest affected receivers as per the requirements of the *Acoustic DA report and Acoustic Design Report*.
- (ii) That those respective elements of the building construction incorporating noise amelioration and that incorporated noise emitting articles subject to applicable noise controls have been inspected and or tested to comply with the requirements of the Acoustic DA Report and Acoustic Design Report. The Principal Certifying Authority shall ensure that the report incorporates a signed statement from the consultant stating that the building complies with all applicable noise requirements.

**(5) INTRUDER ALARM**

Intruder alarm/s associated with the development must operate only in accordance with the requirements of Clause 53 of the *Protection of the Environment Operations (Noise Control) Regulation 2008* under the *Protection of the Environment Operations Act, 1997*.

**SCHEDULE 1B****Prior to Construction Certification/Commencement of Work/Health and Building**

**Note:** Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the certifying authority (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia (and a copy forwarded to Council where Council is not the certifying authority). If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

**(6) BCA - NEW BUILDING WORKS - CLASS 2-9 BUILDINGS**

- (a) Pursuant to Clause 98 of the Environmental Planning and Assessment Regulation 2000, the proposed work must comply with the Building Code of Australia (BCA) including:
  - (i) Provision for escape (access and egress) - Part D1;
  - (ii) Construction of exits - Part D2;
  - (iii) Access for people with disabilities - Part D3;
  - (iv) Fire fighting equipment - Part E1;
  - (v) Smoke hazard management - Part E2;
  - (vi) Emergency lighting, exit signs and warning systems - Part E4;
  - (vii) Light and ventilation - Part F4; and
  - (viii) Energy Efficiency - Part J.
- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, an alternative building solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- (c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 96 of the Act to be lodged with Council to amend this consent.

**(7) FIRE SAFETY CERTIFICATE TO BE SUBMITTED**

A Fire Safety Certificate must be submitted to the Principal Certifying Authority for all of the items listed in the Fire Safety Schedule prior to an Occupation Certificate being issued. A copy of the Fire Safety Certificate must be submitted to Council if it is not the Principal Certifying Authority.

**(8) ANNUAL FIRE SAFETY STATEMENT FORM**

An annual Fire Safety Statement must be given to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued or the use commencing, whichever is earlier.

**(9) ACCESS AND FACILITIES FOR PERSONS WITH DISABILITIES**

The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the *Building Code of Australia* and the *Sydney Development Control Plan 2012*.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council prior to a Construction Certificate being issued.

**(10) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.

**(11) MECHANICAL VENTILATION**

- (a) The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1-1998 and AS1668.2-1991.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1-1998 and AS1668.2-1991, the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.
- (c) Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, must be submitted to the Principal Certifying Authority.

**(12) CONTINUED PERFORMANCE OF MECHANICAL VENTILATION**

The required operation and performance of any mechanical ventilation, air pressurisation or other smoke control system must not be impaired by the proposed partitioning layout.

**(13) INSTALLATION OF DUAL-FLUSH TOILETS**

All toilets installed within the development must be of water efficient dual-flush capacity with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted for the approval of the Certifying Authority, prior to a Construction Certificate being issued.

**(14) INSTALLATION OF WATER EFFICIENT TAPS**

All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be submitted for the approval of the Certifying Authority, prior to an Occupation Certificate being issued.

**(15) INSTALLATION OF WATER EFFICIENT URINALS**

New urinal suites, urinals and urinal flushing control mechanisms must use waterless technology. Where it is submitted that this is not feasible, it must be demonstrated that products have been selected with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS).. Systems must include "smart controls" to reduce unnecessary flushing. Continuous flushing systems are not approved. Details are to be submitted to and approved by the Certifying Authority, prior to a Construction Certificate being issued.

**(16) ELECTRICITY SUBSTATION**

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Energy Australia, prior to a Construction Certificate being issued or the commencement of the use, whichever is earlier.

**(17) UNEXPECTED FINDS PROTOCOL**

Should any unexpected finds in relation to contaminated land and/or groundwater be encountered during development, the NSW EPA Accredited Site Auditor and City Health and Building Unit South Team must be notified as soon as possible. The City Health and Building Unit have the right to cease works until any further investigations are completed.

**(18) CONTAMINATED WASTE**

The generation, storage, transport, treatment or disposal of industrial, hazardous or Group A liquid waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997 and the NSW Department of Environment and Conservation's (DEC) waste tracking requirements. For further information contact the Department of Environment and Conservation (DEC) on 133 372.



**(19) HAZARDOUS AND INDUSTRIAL WASTE**

Hazardous and/or industrial waste arising from the demolition/operational activities must be removed and/or transported in accordance with the requirements of the NSW Environmental Protection Authority, NSW Work Cover Authority pursuant to the provisions of the following:

- (a) Protection of the Environment Operations Act 1997.
- (b) Protection of the Environment Operations (Waste) Regulation 2005.
- (c) Waste Avoidance and Recovery Act 2001.
- (d) Work Health and Safety Act 2011.
- (e) Work Health and Safety Regulation 2011.

**(20) IMPORTED WASTE DERIVED FILL MATERIAL**

The only waste derived fill material that may be received at the development site is:

- (a) Virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*);
- (b) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

**(21) MICROBIAL CONTROL IN WATER SYSTEMS**

- (a) Prior to the issue of a Construction Certificate, detailed plans of any water cooling system (including cooling towers) as defined under the Public Health Act 2010 must be prepared by a suitably qualified person and certified in accordance with AS3666: 1: 2011 Air handling and water systems of buildings – Microbial Control – Design, installation and commissioning and must be submitted to and approved by Council.
- (b) Water cooling system operation and maintenance manuals and maintenance service records shall be readily available at the premises for inspection by an authorised officer upon request. Such records must be kept on the premises in accordance with Clause 2.6 to AS/NZS 3666:2:2011 Air handling and water systems of buildings – Microbial control, operation and maintenance.
- (c) The installation, operation and maintenance of warm water systems and water cooling systems (as defined under the Public Health Act 2010) must comply with the following:

Public Health Act 2010, Public Health Regulation 2012 and Parts 1 and 2 (or part 3 if a Performance-based water cooling system) of AS3666:2011 Air handling and water systems of buildings – Microbial Control and the NSW Health Code of Practice for the Control of Legionnaires Disease.

- (d) Prior to the issue of an Occupation Certificate or, if non applicable, prior to commencement of the use, the owner or occupier of the premises at which any warm water system and/or water cooling system is installed must cause notice of such installation(s) by providing to Council's Environmental Health department, written notification by way of the prescribed form under Clause 12 to the Public Health Regulation 2012. Any changes to these particulars must be notified to Council's Environmental Health department in writing within 7 days of the change(s). Copies of the notification forms are available on the City of Sydney website.

## **(22) GARBAGE ROOM**

The garbage room is to be constructed in accordance with City of Sydney's policy for Waste Minimisation in New Developments and the BCA. The floor of the garbage room is to be drained to a floor waste connected to the sewer. The floor waste is to consist of a removable basket within a fixed basket arrestor and is to comply with Sydney Water requirements. A constant supply of water is to be available within the vicinity.

## **(23) WASTE AND RECYCLING MANAGEMENT - MINOR**

The proposal must comply with the relevant provisions of Council's *Policy for Waste Minimisation in New Developments 2005* which requires facilities to minimise and manage waste and recycling generated by the proposal.

## **(24) RE - USE OF ROOF RAINWATER**

- (a) Use

Rainwater is only to be collected from roof catchments and its use is restricted to toilet flushing, washing cars, garden use and for washing machines only.

- (b) Installation requirements

- (i) All plumbing work is to be carried out by a licensed plumber and must be carried out in accordance with AS/NZS 3500. A permit in accordance with the NSW Code of Practice - Plumbing and Drainage 2006 (as amended) is to be obtained from Sydney Water for the work to be carried out.
- (ii) Rainwater tanks shall be designed to include, but not be limited to, the following:
- a. Shall be fitted with a first flush device.

- b. Openings being suitably sealed to prevent access by children and being fitted with a fine mesh screens in order to prevent penetration of contaminants and insects such as mosquitoes.
  - c. All gutters, downpipes and associated supply pipe work must be free draining to prevent ponding of rainwater and made of suitable non corrodible materials.
  - d. Shall have an overflow device fitted to the rainwater tank which directs to the existing stormwater drainage system, and shall have a suitable drainage system fitted that facilitates flushing and cleaning.
  - e. Shall have all taps and outlets marked “non potable - not for drinking” on a permanent sign and all pipes are to be coloured ‘green’ in accordance with AS 1345 / AS 2700.
  - f. A suitable back up water supply using potable water must be provided to ensure that essential services such as toilet flushing are not contradicted where there is inadequate rainfall to meet demand or the rainwater harvesting system fails.
  - g. Where a rainwater tank is to be directly cross connected with the Sydney Water supply, an appropriate testable device shall be provided at the meter location on the potable water supply to prevent backflow of rainwater. This device must meet the requirements of Sydney Water.
  - h. Water pumps are to be located so as not causing an “*offensive noise*” as defined by the *Protection of the Environment Operations Act 1997* to any affected receiver.
- (c) Proximity to other services
- That all rainwater pipes must be separated from any parallel drinking water service. Above ground pipes must be 100mm away and below ground 300mm away from any drinking water pipe.
- (d) Marking and labelling
- (i) Above ground distribution pipes shall be continuously marked ‘RAINWATER’ in accordance with AS1345. Alternatively, adhesive pipe markers clearly labelled ‘RAINWATER’ made in accordance with AS 1345 can be used.
  - (ii) Below ground distribution pipes shall be continuously marked ‘RAINWATER’ in accordance with AS1345. Alternatively, identification tape/pipe sleeve continuously marked ‘RAINWATER’ made in accordance with AS 2648 can be used.

(iii) All rainwater tank outlets, taps, valves and tank apertures shall be identified as 'RAINWATER' with a sign complying with AS1319 or a green coloured indicator with the letters 'RW'. Alternatively a permanent sign at the front of the premises and visible to all visitors may be displayed advertising rainwater use.

(e) Maintenance

All rainwater tanks installed are to be maintained by the owner in accordance with these provisions, the NSW Health Department Circular no 2002/1 "Use of rainwater tanks where a reticulated potable supply is available", and any other local water utility requirements.

(f) The rainwater collection system shall be constantly maintained in accordance to the manufacturer's instructions and in line with any approved maintenance plan so as to prevent risk of pathogenic microbial contamination including legionella and organisms from wildlife including birds.

**(25) EMISSIONS**

(a) The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities, which are a nuisance, injurious or prejudicial to health.

(b) Gaseous emissions from the development must comply with the requirements of the Protection of the Environment Operations Act, 1997 and Regulations. Uses that produce airborne particulate matter must incorporate a dust collection system.

**SCHEDULE 1C**

**During Construction/Prior to Occupation/Completion**

**(26) OCCUPATION CERTIFICATE TO BE SUBMITTED**

An Occupation Certificate must be obtained from the Principal Certifying Authority and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

**(27) HOURS OF WORK AND NOISE – OUTSIDE CBD**

The hours of construction and work on the development must be as follows:

(a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.

- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites".

Note: The "City of Sydney Code of Practice for Construction Hours/Noise 1992" allows extended working hours subject to the approval of an application in accordance with the Code and under Section 96 of the Environmental Planning and Assessment Act 1979.

#### **(28) USE OF INTRUSIVE APPLIANCES - TIME RESTRICTION**

- (a) The operation of high noise intrusive plant and machinery such as pile-drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436-2010 "Guide to Noise Control on Construction, Maintenance and Demolition Sites is restricted to the hours of:
- (i) 9:00am -12:00pm and 1:00 pm– 4:30pm Mondays to Friday
  - (ii) 9:00am – 1:00pm on Saturdays
  - (iii) No work is permitted on Sundays or Public Holidays
- (b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436- 2010 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.
- (c) All reasonable and feasible steps must be taken to ensure that noise levels from activities conducted on site are kept to a minimum including the adoption of less noise intrusive plant and equipment or technologies.

#### **(29) COVERING OF LOADS**

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

#### **(30) WATER POLLUTION**

No wastewater, chemicals or other substances harmful to the environment shall be permitted to discharge to Council's stormwater system. Only clean, unpolluted water is permitted to discharge into the stormwater system.

#### **(31) DUST MANAGEMENT**

All reasonable and feasible steps must be taken to ensure that dust from activities conducted on site is kept to a minimum. This includes the covering and wetting down of disturbed soils.

**(32) PROTECTION OF STREET TREES DURING CONSTRUCTION**

All street trees adjacent to the site not approved for removal must be protected at all times during demolition and construction, in accordance with Council's Tree Preservation Order.

Details of the methods of protection must be submitted to and be approved by Council prior to the issue of the Construction Certificate and such approval should be forwarded to the Principal Certifying Authority. All approved protection measures must be maintained for the duration of construction and any tree on the footpath which is damaged or removed during construction must be replaced.

**(33) VEHICLE CLEANSING**

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

**(34) ACCESS DRIVEWAYS TO BE CONSTRUCTED**

Approved driveways are to be constructed for all vehicular access to the construction site in accordance with the requirements of Council's "Driveway Specifications" to the satisfaction of Council.

**(35) LOADING AND UNLOADING DURING CONSTRUCTION**

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site.
- (b) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) In addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) The structural design of the building must allow the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.

**(36) NO OBSTRUCTION OF PUBLIC WAY**

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by Council to stop all work on site.

**(37) USE OF MOBILE CRANES**

The following requirements apply:

- (a) Mobile cranes operating from the road must not be used as a method of demolishing or constructing a building.
- (b) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council for the use of a mobile crane. The permits must be obtained 48 hours beforehand for partial road closures which, in the opinion of Council, will create minimal traffic disruptions and 4 weeks beforehand in the case of full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (c) Special operations and the use of mobile cranes must comply with the approved hours of construction. Mobile cranes must not be delivered to the site prior to 7.30am without the prior approval of Council.

**SCHEDULE 2**

**The prescribed conditions in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000 apply to the development.**

Clause 98	Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
Clause 98A	Erection of signs
Clause 98B	Notification of Home Building Act 1989 requirements
Clause 98C	Conditions relating to entertainment venues
Clause 98D	Conditions relating to maximum capacity signage
Clause 98E	Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the Environmental Planning and Assessment Regulation 2000. This can be accessed at: <http://www.legislation.nsw.gov.au>

## BACKGROUND

### The Site and Surrounding Development

1. The site is located on the eastern side of Bourke Road and the northern side of Gardeners Road and with separate frontages to those streets of approximately 105m and 125m respectively. The site contains an area of 39,800sqm and is currently vacant. The proposal relates to the northern lot, as indicated in Figure 1.
2. A separate development application (D/2013/1698) for a warehouse and distribution centre has recently been approved for the southern lot (fronting Gardeners Road) including an access handle to Bourke Road.
3. The site is located near the southern border of the City of Sydney Local Government Area and the locality immediately surrounding the site is characterised by industrial and bulky goods land uses. To the south of the site (when viewed from Bourke Road) is Bunnings Warehouse. To the north of the site is Sydney Corporate Park.
4. On the southern side of Gardeners Road is residential development within the Botany Council area.
5. Photos of the site and surrounds are provided below:



Figure 1: Aerial image of subject site and surrounding area





**Figure 2:** Site viewed from Bourke Road.



**Figure 3:** Looking south along Bourke Road towards Bunnings Warehouse.



**Figure 4:** Looking north along Bourke Road towards Sydney Corporate Park.

## PROPOSAL

6. The application proposes the internal fit out of a data centre for global enterprises, content companies and network service providers. The data centre is to house computer systems and associated components, such as telecommunications and storage systems.
7. The applicant submits that the proposal incorporates state of the art design and technology which combine to make it one of the most efficient and environmentally sustainable data centres in the country. The data centre is to provide 24/7 mission critical services to business customers by providing a secure and reliable location for the “co-locating” of their IT equipment.
8. The fit out works relate to the eastern section of the main building and includes:

### Ground Floor and Level 1

- (a) Colocation Halls (environmentally controlled spaces for the locating of customer IT equipment) broken up into four pods at each corner of the building, separated by large plant rooms located centrally on the floor;
- (b) A central corridor running east to west and two smaller corridors running north to south, separating the Colocation Halls; and
- (c) All electrical services equipment located centrally including electrical rooms, mechanical risers, store room with internal diesel pump, exhausts and telecommunications facilities.

Level 2

- (a) Plant across the majority of the floor; and
- (b) Generators located in two designated areas.

External

- (a) Four water tanks providing 1ML of above ground storage;
- (b) The diesel tanks are proposed to be underground and will be double skin fibreglass providing 140KL of storage; and
- (c) External plant and diesel storage tanks located at the rear of the site.

**HISTORY RELEVANT TO THE DEVELOPMENT APPLICATION**

9. Relevant development history of the site includes the following applications.
- (a) D/2011/636 – On 29 August 2011 development consent was granted for subdivision of the site, comprising five existing lots, into two new lots, construction of vehicle access driveway in Bourke Road and relocation of Sydney Water sewer main. Subdivision works associated with this application have commenced; however, these lots have not been registered with the Land Titles Office.
  - (b) D/2013/1698 – On 12 June 2014 development consent was granted for construction, fit out and use of a warehouse and distribution centre and freight transport facility comprising two levels of warehousing, three storey ancillary office, basement parking, hardstand and landscaping. This application is for the southern lot fronting Gardeners Road, but includes the access handle to Bourke Road.
  - (c) D/2014/453 - Construction of new three storey industrial building for use as a data centre, with hours of operation 24 hours a day, Monday to Sunday inclusive. Includes new driveway to Bourke Road, car parking, fencing, gates and landscaping. This application was determined by Council staff under delegation on 26 June 2014 (refer to **Attachment B** for the Notice of Determination).

**ECONOMIC/SOCIAL/ENVIRONMENTAL IMPACTS**

10. The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters:
- (a) Environmental Planning Instruments and DCPs.

**Sydney LEP 2012**

11. The site is located within the IN1 General Industrial zone. The proposed use is defined as high technology industry and is permissible. Clause 7.20 does not require a Stage 1 development application or site specific DCP for land in IN1 (General Industrial) zone.

12. The proposal satisfies the relevant provisions and objectives of the LEP and is acceptable in that:
  - (a) it is a permitted use and consistent with the zone objectives;
  - (b) the floor space ratio, height and car parking were assessed under the recently approved base building application (D/2014/453) and considered generally consistent with the controls; and
  - (c) there is no unreasonable impact on the use and enjoyment of surrounding land.

### Sydney DCP 2012

13. The recently approved base building application D/2014/453 granted consent for the construction of a new three-storey industrial building to house the data centre (refer to **Attachment B** for the Notice of Determination). The assessment addressed the key environmental impact issues including:
  - (a) Height, Floor Space and Parking;
  - (b) Design Excellence and the Public Domain;
  - (c) Hours of Operation and Noise;
  - (d) Contamination and Acid Sulphate Soils; and
  - (e) Building Design, Layout and Access Arrangements.
14. The proposed fit out works are considered to satisfy the relevant objectives and provisions of the DCP.

### ISSUES

#### Reporting to the Central Sydney Planning Committee

15. Under the provisions of the City of Sydney Act 1988, the Central Sydney Planning Committee (the CSPC) is the consent authority for 'major development'. Clause 31 of the Act states that:

*"major development" means development carried out or proposed to be carried out on land within or partly within the City of Sydney, being:*

  - (a) *development the estimated cost of which exceeds 50 million dollars, or*
  - (b) *development the subject of a development application which, if unconditional consent were to be granted to the application, would not comply with an environmental planning instrument that applies to the land concerned, or*
  - (c) *development the subject of a development application, or development of a specified class, that the Minister administering Part 4 of the Planning Act has requested the Planning Committee to deal with."*
16. The estimated development cost of the DA is \$177,404,000, which is above the threshold in sub-clause (a) above. Sub-clause (b) and (c) have no relevance to the application at hand.

17. On 24 June 2004, the Central Sydney Planning Committee considered a report "Delegation to Council - Development Applications Involving Variation to a Development Standard and Costing Less than \$50m". Amongst other things, the report stated that:

*"6. Since the City of Sydney has expanded to include areas other than the CBD, there has been occasion where small development applications have been required to be determined by the Central Sydney Planning Committee. These applications are typically of local significance only, and have been as small as applications for single dwelling houses and town house developments in breach of numerical development standards, which under the City of Sydney Act is defined as "major development".*

*7. It is not considered in the drafting of the City of Sydney Act, that it was intended that the role of the CSPC would extend to deliberation and determination of such small development applications. Further, it is not considered that such applications are an appropriate use of the time and resources of the CSPC.*

*8. The proposal is to delegate all applications for development consent under 50 million dollars to the City of Sydney Council, whether or not such a proposal complies with an Environmental Planning Instrument. However, pre-existing delegations (e.g. to staff for buildings three storeys and under) are not proposed to be altered."*

18. On 24 June 2004, the Central Sydney Planning Committee resolved that:

*"(A) the CSPC delegate authority to the Council of the City of Sydney, pursuant to Section 40(2) of the City of Sydney Act 1988, to exercise CSPC's functions with respect to all applications for development consent where the estimated cost of development does not exceed \$50,000,000, including those applications which do not comply with an environmental planning instrument that applies to the land concerned;*

*(B) the delegation made by this resolution excludes those applications or classes of applications which are the subject of pre-existing delegations; and*

*(C) a report be submitted to the CSPC every six months to keep track of matters dealt with by Council under this delegation, and to identify trends that may be of interest to the CSPC."*

19. The DA, the subject of this report, does not meet the above delegation. Accordingly, the CSPC is the consent authority for the application.

### **Other Impacts of the Development**

20. The proposed development is capable of complying with the BCA.

21. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

**Suitability of the site for the Development**

22. The proposal is of a nature in keeping with the overall function of the site. The premises are in an industrial surrounding and amongst similar uses to that proposed.

**INTERNAL REFERRALS**

23. The conditions of other sections of Council have been included in the proposed conditions.

**EXTERNAL REFERRALS****Ausgrid**

24. Ausgrid have recommended a condition requiring that a substation be provided.

**Notification, Advertising and Delegation (Submissions Received)**

25. In accordance with Schedule 1 the Sydney DCP 2012, the proposed development is required to be notified and advertised. As such, the application was notified and advertised for a period of 28 days between 16 April and 15 May 2014. As a result of this notification, there were two submissions received.

The issues raised in the submissions are as follows:

- (a) Noise from diesel generators the plantroom, and the 24 hour use.

**Response** – The proposal has been reviewed by Council's health officers and is not considered to result in an unacceptable noise level, subject to the recommended conditions. The nearest residential receivers are on the opposite side of Gardeners Road, which is over 200m from the proposal.

- (b) The development will bring an increase in traffic to an already congested area.

**Response** - The development is proposed to have 10 fulltime staff and is not considered to result in an unreasonable increase in traffic within the surrounding area. A condition is recommended that a Construction Traffic Management Plan be submitted to address traffic issues during construction.

- (c) The proposed height is out of context with surrounding development.

**Response** - The height of the building is not a consideration for this application for the internal fitout.

**PUBLIC INTEREST**

26. It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.

**FINANCIAL IMPLICATIONS/S94 CONTRIBUTION****Section 94 Contributions**

27. The development is not subject to a Section 94 Contribution.

**RELEVANT LEGISLATION**

28. The Environmental Planning and Assessment Act 1979.

**CONCLUSION**

29. The proposal for the internal fit out of a data centre complies with the provisions of the Sydney LEP 2012 and Sydney DCP 2012 and is acceptable in that:
- (a) it is a permitted use and consistent with the zone objectives;
  - (b) the floor space ratio, height and car parking were assessed under the recently approved base building application (D/2014/453) and considered generally consistent with the controls; and
  - (c) there is no unreasonable impact on the use and enjoyment of surrounding land.
30. Accordingly, it is recommended that the application be approved, subject to the conditions as detailed in this report.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

(Matthew Girvan, Specialist Planner)