

**Item 8.****Development Application: 506 Gardeners Road, Alexandria - D/2021/45**

File No.: D/2021/45

**Summary**

<b>Date of Submission:</b>	3 February 2021  Amended drawings and additional information received on 7 September 2021 and 8 October 2021
<b>Applicant:</b>	Mecone
<b>Architect:</b>	Warren and Mahoney
<b>Developer:</b>	Equinix Australia Pty Ltd
<b>Owner:</b>	Equinix Australia Pty Ltd
<b>Planning Consultant:</b>	Mecone
<b>DAP:</b>	12 April 2021
<b>Cost of Works:</b>	\$54,782,201
<b>Zoning:</b>	The site is located in the IN1 General Industrial zone. The proposed development is defined as data centre and is permissible with consent in the zone.
<b>Proposal Summary:</b>	<p>The application seeks consent for the construction of a 4 storey data centre. The propose building will front a future north-south road on the eastern property boundary and will also face Gardeners Road.</p> <p>The building will contain plant rooms and areas for data storage equipment. The building has been designed to accommodate major public artwork to the southern (Gardeners Road), eastern and western facades.</p> <p>The application was advertised and notified for a period of 28 days between 12 February 2021 and 13 March 2021 and no submissions were received.</p>

The proposal has been amended to address concerns regarding public art, landscaping, sustainability initiatives and waste management.

The development of the site has been broken into two stages. The original approval for the site (D/2017/1797) included the detailed construction of the Stage 1 data centre building, landscaping and site works, and a concept envelope for a Stage 2 building. The Stage 1 building has been substantially completed. This application seeks detailed approval for the stage 2 building located to the southern portion of the site.

The Stage 2 building is an extension to the Stage 1 data centre building located within the northern portion of the site and is connected internally to form one large building on the site. The Stage 1 building also connects internally via a footbridge to the data centre located to the north at 200 Bourke Road.

The proposal is also consistent with an executed VPA which requires a 10.5m wide strip of land on the eastern boundary to be transferred to Council as operational land. The is to be landscaped and will contribute to a future north-south road as identified under the Sydney DCP 2012.

The proposed public art to the principal facades and site landscaping will add interest, improve the quality and amenity of the public domain and contribute positively to the character of the area.

A condition is recommended for the final details of the public art to be submitted, consulted, and approved by Council's Director City Planning Development and Transport prior to any construction certificate. The facade artwork will be developed through a Detailed Public Art Plan that contains the public artwork concept, illustrated in such a way that the form, dimensions, materials, location, lifespan and maintenance requirements of the artwork, are clearly communicated. Conditions require artwork to be placed on all visible facades to the east, west and south of the building.

The proposal is consistent with the previous concept plan approval and compliant with the relevant provisions contained in the Sydney Local Environment Plan 2012 and Sydney Development Control Plan 2012 particularly the Southern Employment Lands provisions which apply.

**Summary Recommendation:** The development application is recommended for approval, subject to conditions.

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979
- (ii) State Environmental Planning Policy No 55—  
Remediation of Land
- (iii) State Environmental Planning Policy (Infrastructure)  
2000
- (iv) Sydney Local Environmental Plan 2012 (SLEP)
- (v) Sydney Development Control Plan 2012 (SDCP)
- (vi) City of Sydney Development Contributions Plan 2015
- (vii) Commonwealth Airports Act 1996

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Plans
- C. Preliminary Public Art Plan

## Recommendation

It is resolved that consent be granted to Development Application No. D/2021/45 subject to the conditions set out in Attachment A to the subject report.

## Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development is consistent with the concept approval conditions in accordance with the provisions of Division 4.4 Concept Development Application of the Environmental Planning and Assessment Act 1979.
- (B) The development complies with the permitted Height pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012.
- (C) The development complies with the permitted Floor Space Ratio pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (D) The development uses high quality materials and finishes and is to integrate public art into the facades of the building and include landscaping to enhance its appearance within the public domain and positively contribute to the character of the area, as per Clause 6.21 Design Excellence of the Sydney Local Environmental Plan 2012.
- (E) The development is of a use and design that is consistent with the existing and desired future character of the Alexandra Canal Locality Statement, as per Section 2 of the Sydney Development Control Plan 2012.
- (F) The development is consistent with the objectives of the Sydney Development Control Plan 2012 in particular, Section 5.8 Southern Employment Lands.
- (G) Suitable conditions of consent have been applied and the development is considered to be in the public interest.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 301 DP 1231238 and is commonly known as 506 Gardeners Road, Alexandria. It is rectangular in shape with an area of approximately 25,780sqm. The subject site fronts Gardeners Road with private access provided from Bourke Road.
2. Construction of a three storey data centre building within the northern end of the site has been substantially completed. An internal access road from Bourke Road has been constructed as well as car parking and some landscaping has been installed. This forms part of the stage 1 development consent (D/2017/1797). As part of the stage 1 consent, an area of land (2,224.45sqm) along the eastern boundary of the site is to be transferred to Council for purposes of a road that will eventually connect Gardeners Road to Doody Street.
3. The subject development proposal is Stage 2 of the development and will create a data centre within the southern portion of the site fronting Gardeners Road that extends and connects with the Stage 1 building to form one connected building on the site.
4. The site is not a heritage item and is not located within a heritage conservation area. Surrounding land uses are a mixture of industrial, commercial, and residential uses. The site is located within the Southern Employment Lands which contains a range of industrial uses including light and high technology uses and is characterised by large sized lots containing logistics, commercial and industrial buildings.
5. Adjoining the site to the west is a vacant Bunnings Warehouse. A recently constructed data centre is located to the north west at 200 Bourke Road and is owned by the same developer Equinix. The Stage 1 data centre connects internally via a footbridge to the data centre located at 200 Bourke Road. Adjoining the site to the north east is the Sydney Corporate Park which contains a mixture of uses including office and business premises, food and drink premises, indoor recreational facilities, health services facilities and a childcare centre. Adjoining the site to the east is a single storey bulky goods retail complex with multiple tenancies.
6. The site is located on the northern side of Gardeners Road which forms the Local Government Area (LGA) boundary dividing the City of Sydney and Bayside Council. Development along the southern side of Gardeners Road consists of buildings up to 6 storeys in height and includes residential flat buildings, mixed use buildings and another Equinix data centre located directly opposite the site at 639 Gardeners Road.
7. The private road entrance is via a signalled intersection with Bourke Road. This section of Bourke and Campbell Roads have been upgraded in conjunction with the recently opened WestConnex interchange. A 3.5m wide piece of land fronting Gardeners Road was recently subdivided from the side and has been acquired by the Roads and Maritime Services for the purposes of road widening.
8. A site visit was carried out on 1 May 2021 and 29 September 2021. Photos of the site and surrounds are provided below:



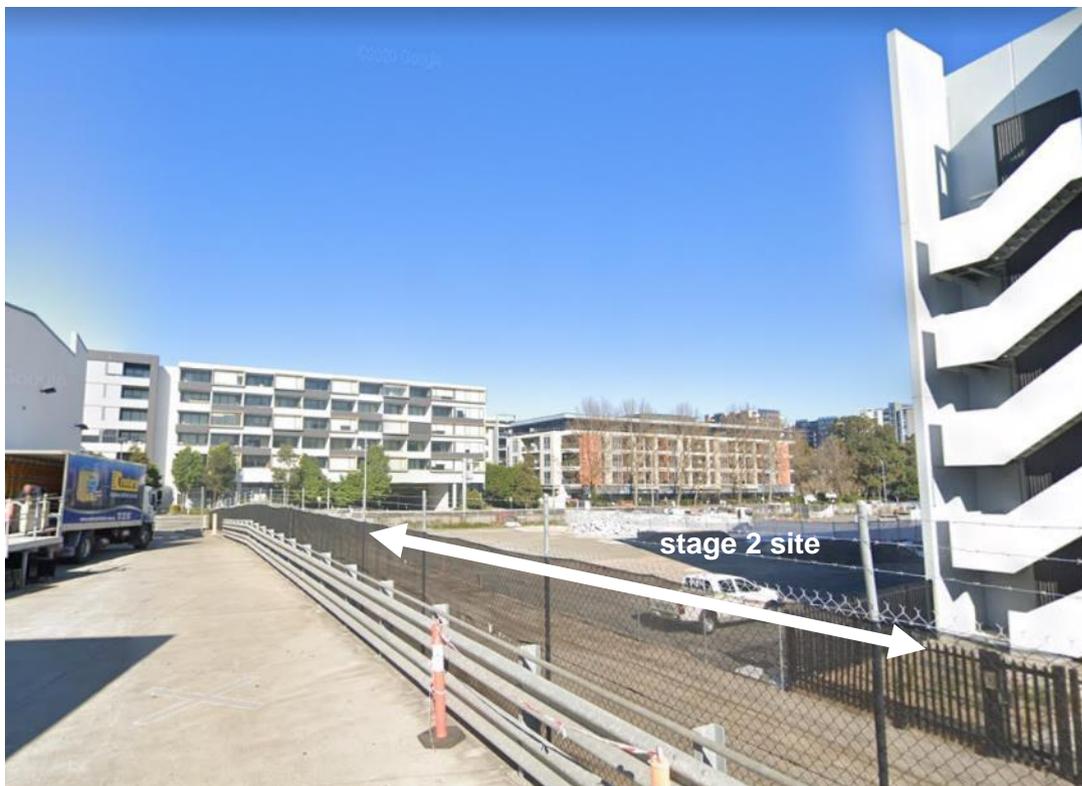
**Figure 1:** Aerial view of site (outlined in red) and surrounds



**Figure 2:** Stage 2 proposed data centre located on southern portion of the site (outlined in white). Stage 1 data centre shown to be near completion.



**Figure 3:** Site viewed from Gardeners Road, looking north. Southern facade of the stage 1 data centre shown.



**Figure 4:** Site viewed looking south from the adjoining site, showing the eastern edge of the proposed Stage 2 data centre and the recently constructed stage 1 data centre



**Figure 5:** Site and stage 1 data centre viewed from Gardeners Road, looking north west



**Figure 6:** Site and future road to be transferred to Council viewed from Gardeners Road



**Figure 7:** Adjoining bulky good retail to the east of the site, viewed from Gardeners Road



**Figure 8:** Site and adjoining properties viewed from Gardeners Road, looking west



**Figure 9:** Adjoining property to the west of the site (vacated bunnings warehouse building), viewed from Gardeners Road



**Figure 10:** View looking west on Gardeners Road showing Bayside LGA to the south of Gardeners Road and City of Sydney LGA and subject site to the north of Gardeners Road



**Figure 11:** Mixed use development on the opposite side of Gardeners Road to the south of the site and within Bayside LGA



**Figure 12:** Mixed use development on the opposite side of Gardeners Road within Bayside LGA



**Figure 13:** Stage 1 data centre viewed from internal road that comes off Bourke Road, looking east



**Figure 14:** Entrance to internal road that comes off Bourke Road. Footbridge shown that connects stage 1 data centre and the data centre at 200 Bourke Road.



**Figure 15:** Equinix data centre at 200 Bourke Road, viewed from Bourke Road



**Figure 16:** Rear of adjoining property (vacated bunnings warehouse) to the west, viewed from Bourke Road



**Figure 17:** View looking west from the internal road, including signalised intersection and upgraded Bourke and Campbell Roads

## History Relevant to the Development Application

### Previous Applications - 200 Bourke Road

9. Previous applications that are relevant to the site:

- D/2011/636 - On 29 August 2011, development consent was granted for subdivision of the site from five lots into two new lots, construction of a vehicle access driveway off Bourke Road and relocation of a Sydney Water sewer main. The subdivision approved under this application was registered and comprised of Lot 1 which is now known as 200 Bourke Road, Alexandria and Lot 2 now known as the subject site 506 Gardeners Road, Alexandria.
- D/2014/453 - On 26 June 2014, development consent was granted for the construction of a new three storey data centre, new vehicular access, car parking, fencing, gates and landscaping. This Equinix data centre has been constructed and is located at 200 Bourke Road, adjoining the site to the north. A pedestrian airbridge connects building with the subject site.
- D/2014/452 - On 24 July 2014, development consent was granted for the fit out of the data centre at 200 Bourke Road approved under D/2014/453.

**Stage 1 Development Consent D/2017/1797 - subject site**

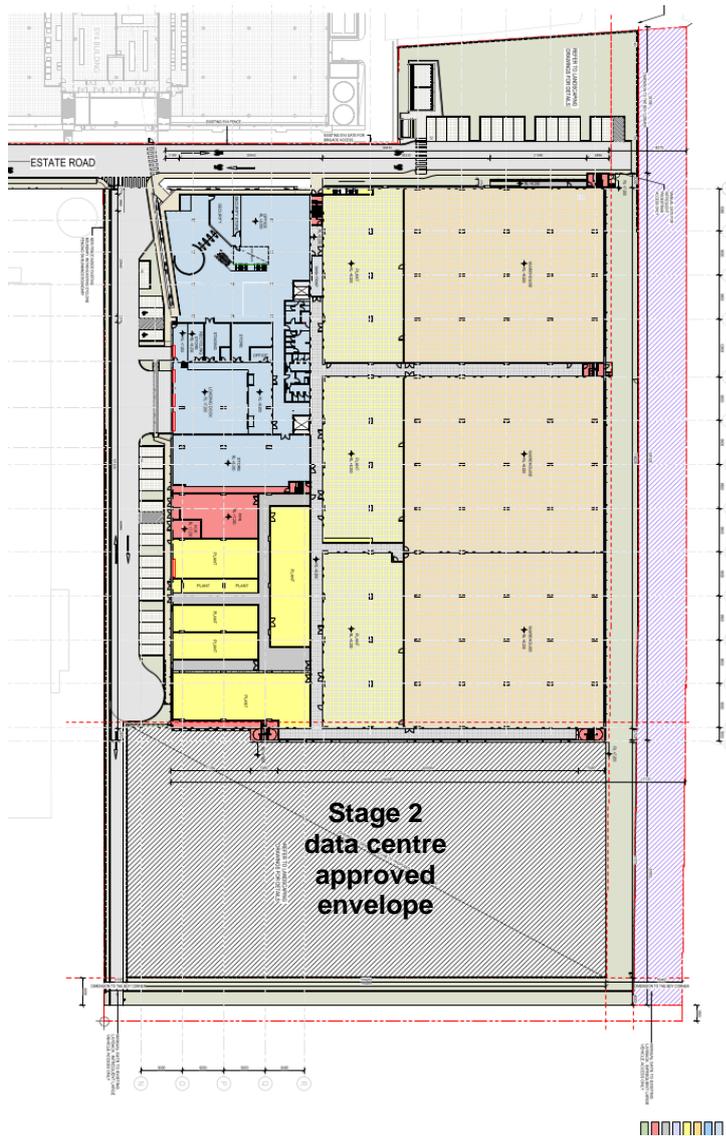
10. On 21 June 2018, the Central Sydney Planning Committee delegated authority to the CEO to determine the original application for the site (D/2017/1797) following the exhibition of the associated Voluntary Planning Agreement (VPA).
11. Following the exhibition of the VPA the CEO granted a deferred commencement consent on 5 July 2018. The deferred commencement required execution of the VPA. The VPA was executed and the consent was activated on 22 October 2018. This consent included:
  - (a) The construction of a 3 storey data centre to the northern portion of the site. This included a pedestrian air bridge that connected with the existing data centre at 200 Bourke Road. The approval also included a loading dock, waste storage rooms, road access, rooftop generators, office space and an outdoor area for staff which is to be shared with both the stage 1 and stage 2 building. This building is able to operate 24 hours per day, 7 days per week.
  - (b) Detailed consent was also given for the following site works that is shared for both Stage 1 and Stage 2:
    - (i) extension of existing internal east-west estate road and construction of new internal road along the western boundary of the site;
    - (ii) 33 at grade car parking spaces and bicycle storage for 40 bicycle parking spaces located to the north eastern corner of the site which is shared for both data centres;
    - (iii) 1.8m high palisade fencing and landscaping to the perimeter of the entire site. Landscaping approved included 118 trees;
    - (iv) removal of vehicle footway crossing on Gardeners Road located closest to the subject site's eastern boundary
    - (v) earthworks including remediation and drainage infrastructure; and
    - (vi) fire hydrant and booster room to service the entire site which is located to the western side of the stage 1 building with access from the internal road running along the western boundary.
  - (c) Concept envelope approval for the second stage of development. This included a 4 storey envelope within a 25m height envelope (RL 32.00) to the southern portion of the site fronting Gardeners Road.
  - (d) The consent set a maximum FSR for the entire site of 1.5:1. It also included a 6m setback from the future road located to the eastern boundary and to Gardeners Road to enable large tree planting.
12. The executed VPA requires:
  - Transfer of a 10.5m wide strip of land with an area of 2,244.745sqm located along the eastern boundary to Council prior to issue of the first Occupation Certificate. The land is to include temporary landscaping.

- Given the staged construction the VPA has been amended to require transfer and landscaping of the land to Council prior to issue of a final OC or within 36 months of the new agreement being executed by the parties. The VPA variation agreement was executed on 15 September 2021. This will enable the land to be temporarily used for construction purposes to complete the stage 1 and stage 2 building.
13. At the time of writing this report, the construction of the 3 storey building on the northern portion of the site and site works is nearing completion.
  14. Public art has been approved to the top sections of the east (future road) and west facade to only the stage 1 building that is based on vintage computer punch cards known as 'Mainframe' and designed by the artist Diana Harris, see Figure 23 and 24 below. The computer punch data cards have been recreated as aluminium panels that are perforated and cladded to the east elevation (36 rows of 6 screens) and to the west elevation (15 rows of 6 screens).
  15. The subject application relates to the detailed design to the Stage 2 building envelope approved on the southern portion of the site fronting Gardeners Road.

#### Consent Modifications - D/2017/1797

16. The original consent D/2017/1797 has been modified as follows:
  - D/2017/1797/A - On 7 August 2018, approval was granted for the following modifications:
    - (i) Amend Condition 32 (Landscaping of the Site) to defer submission of the maintenance plan to the issue of a Construction Certificate for above ground works; and
    - (ii) Amend Condition 52 (Site Audit Statement) to defer submission of the Section A Site Audit Statement to reflect the timing of the proposed remediation works under the Remediation Action Plan (RAP).
  - D/2017/1797/B – On 29 October 2018, approval was granted for internal and external modifications to the design of the stage 1 building only. No changes were proposed to the stage 2 building envelope.
  - D/2017/1797/C – On 24 March 2020, approval was granted to subdivide the site into 2 lots with Lot 1 being the stage 1 and stage 2 areas of the site and Lot 2 as the area to be dedicated to Council for the future road. Furthermore, approval was granted to amend the satisfaction of 4 conditions to either the installation of the 5th or 8th rooftop generator for the development, or the issue of a Final Occupation Certificate rather than any Occupation Certificate. This would allow the interim occupation of the Stage 1 data centre.
  - D/2017/1797/D – On 22 June 2020, approval was granted to amend Condition 72 (Vehicle Footway Crossings) to defer satisfaction to the issue of Final Occupation Certificate

- D/2017/1797/E – On 11 May 2021, approval was granted to add a condition which includes time and conditional requirements for the completion of the temporary steel cabling to the southern facade of the stage 1 building and amend Condition 40 (Stormwater and Drainage - Major Development) to delete the requirement for Council's final sign for completed works.
17. D/2019/448 - On 3 December 2019, development consent granted for external lighting works associated with the approved data centre as Condition 16 External Lighting of the approved consent D/2017/1797 required a separate development application to be submitted.
  18. Approved plans and elevations under the original consent (D/2017/1797) are included below:



**Figure 18:** Site plan showing approved envelope of the subject stage 2 data centre

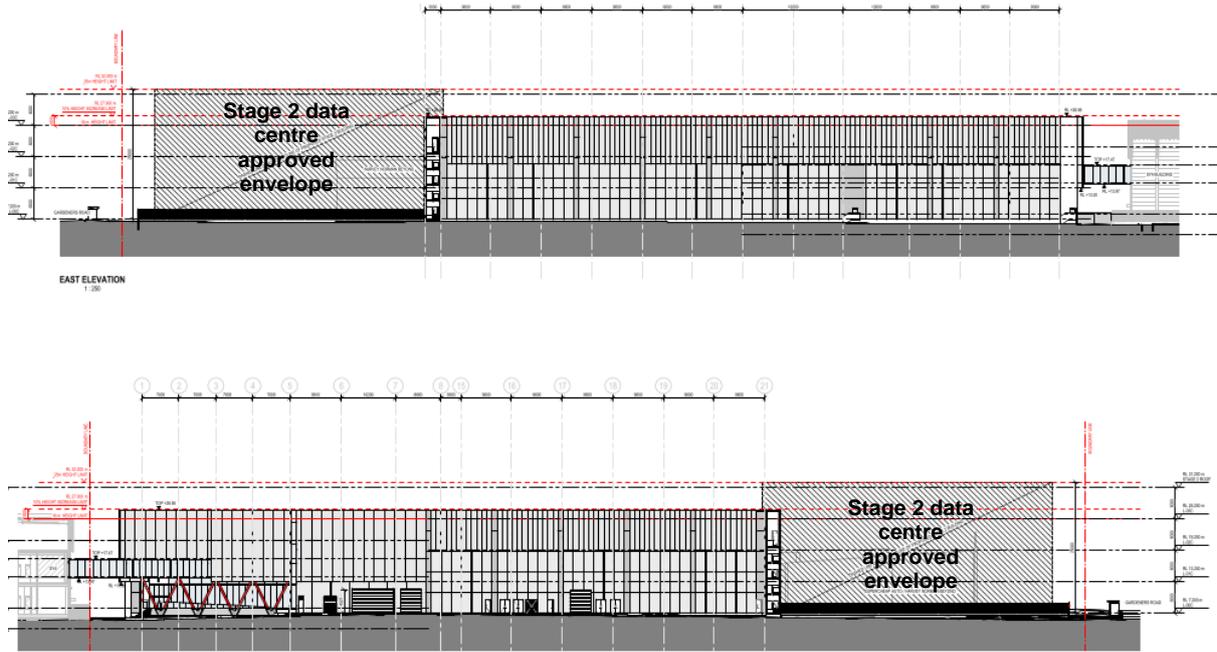


Figure 19: East and west elevation showing approved envelope of the subject stage 2 data centre

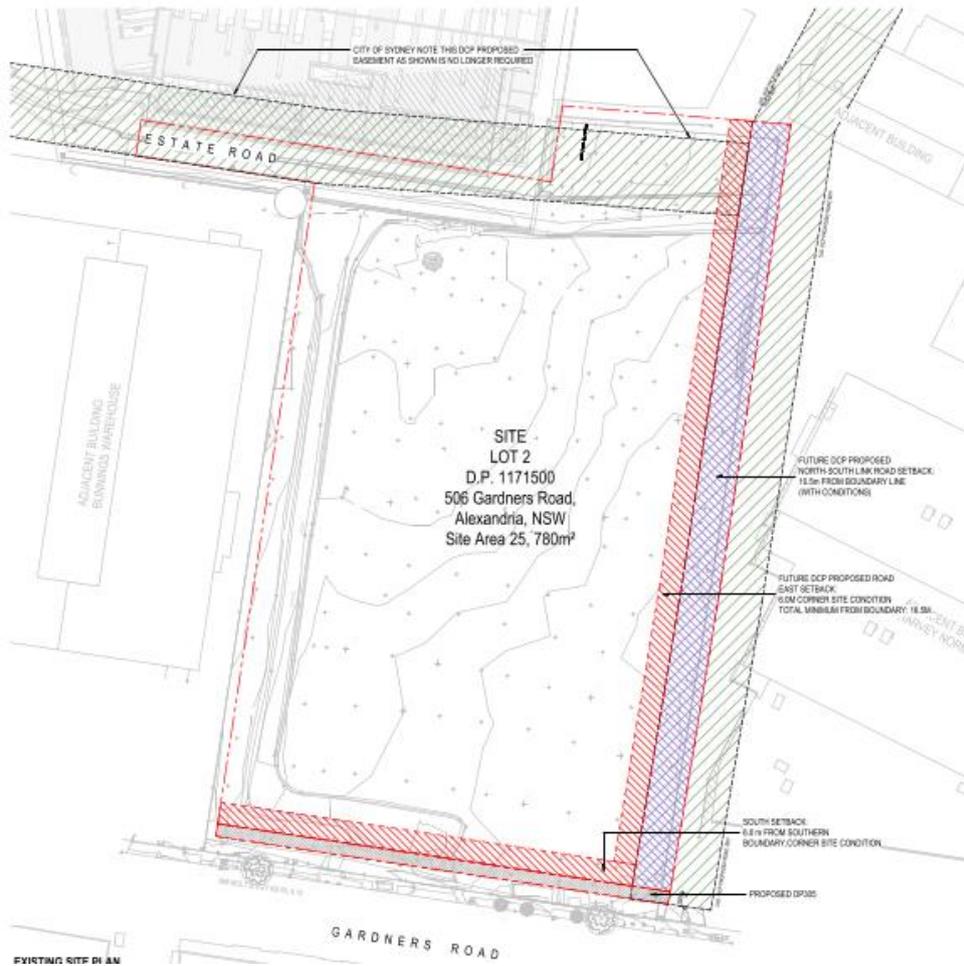


Figure 20: Site plan showing future road shown in hatched blue and required minimum 6m setbacks shown in hatched red



**Figure 21:** Photomontage southern (Gardeners Road) facade of Stage 1 works



**Figure 22:** Photomontage western facade of Stage 1 works



**Figure 23:** Photomontage east facade (future road) of Stage 1 works which shows the approved public art of computer punch cards recreated onto perforated aluminium and cladded to the top levels of the east and west facades



**Figure 24:** Public art approved of vintage computer punch cards recreated onto perforated aluminium and cladded to the top levels of the east (future road) and west facades of the stage 1 building

### Compliance Action

19. Since the commencement of the stage 1 works and associated remediation there has been a number of complaints regarding noise, dust and vibration. These complaints have been investigated and are closed. However, conditions are recommended to address noise, dust and vibration management.

### Amendments to the subject application

20. The original proposal had public artwork located at the base of the building to the southern facade and articulated panels above. See Figure 25 below of the proposed photomontage of the original proposal.
21. On 12 April 2021, the application was considered by the Design Advisory Panel (DAP).
22. Following a preliminary assessment of the proposed development by Council Officers and comments from DAP a request for amendments was sent to the applicant to address the following concerns:
  - The location of the public art is not supported as it is to the base of the building on the southern facade which is screened by the front setback landscaping area. Use of fin blade walls on the facade is clumsy and materials used is to improve the buildings visual interest. The presentation of the development and relationship with the public domain is to be improved by incorporating either a green wall or new public art treatments to the upper levels of the building where it is visible to the public eye.
  - The proposed landscaping changes replaced medium trees with smaller trees along the eastern and western setback area resulting in less canopy coverage and spread particularly to the future road.
  - Due to the location of the front boundary fence, the approved large Spotted Gum trees along the front setback area to Gardeners Road is proposed to be located within 1m of the building alignment on the southern elevation and the front boundary fence which compromises the tree canopy spread and growth.
  - Further details are required on waste management and sustainability initiatives.
23. Amended designs were submitted and discussions were held with Council officers. A final package was submitted by the proponent on 7 September 2021 and 8 October 2021. The proposal was amended as follows:
  - A revised public art plan was submitted that would improve the buildings relationship with the public domain and included a shortlist of artists, a realistic budget and artist brief. The revised strategy included public art on the entire southern, eastern and western facades.
  - The articulated panels are removed to the entire southern, eastern and western facade to provide a flat surface which is to allow the installation/integration of public art.
  - Landscape plans provided showing no changes to the stage 1 approved location of the trees, tree species and tree quantities. Removal of the porous paving and minor changes to the native shrubs and grass.

- Adequate waste management plan and design for environmental performance report.

24. This amended scheme is the subject of this assessment report.



**Figure 25:** Photomontage of the original proposal lodged on 3 February 2021. Original location of public art was to the base of the building on the southern facade which is screened by the front setback landscaping area as outlined. Fin blade walls proposed to the facade resulting in no usable and more visible areas for public art.

## Proposed Development

25. The development consent D/2017/1797 (known as Stage 1) approved the concept envelope for a 4 storey data centre within a 25m height envelope fronting Gardeners Road.
26. The application seeks consent for the Stage 2 detailed design to this concept envelope for a 4 storey data centre. This data centre extends from the Stage 1 data centre which is built to the northern portion of the site and is proposed to connect internally. The building is setback a minimum 6m from the front site boundary to Gardeners Road and to the boundary of the future road located to the east. The building is setback a minimum of 5m from the western site boundary.
27. The building contains plant rooms and data centre equipment to each level. No rooftop plant area and generators are proposed to the roof of the Stage 2 building as all plant and generator equipment is contained within the Stage 2 building or shared with the Stage 1 building.

28. Public art is proposed to be located to the southern (Gardeners Road), eastern and western facade with a detailed preliminary public art plan provided. The materials and design of the building results in a flat and blank facade treatment to optimise these areas for public art which can be applied and/or integrated to these walls. The public artwork is supported by a Preliminary Public Art Plan (Plan) prepared by Authority Creative, see Attachment C. As identified on the Plan, the intent of the public artwork is to create visual interest to reduce perceived bulk of the facade of the building. The public art intends to contribute to the cultural vitality of the area and enhance the visual amenity and vibrancy of the streetscape. The Plan includes a shortlist of Australian artists with concept artworks, budget and the commission process documented.
29. The Stage 1 consent approved landscaping which includes 118 trees around the perimeter and deep soil areas. 10 large Spotted Gum trees are approved to the front setback area to Gardeners Road with an array of native shrubs and grasses and raingardens. A 1.8m high palisade fence is proposed along the front boundary which is located behind landscaping. The subject application proposes no changes to the approved fencing and location of trees, tree species and quantity. Minor changes are proposed to the native shrubs and grasses and raingarden.
30. There are three existing vehicle footway crossovers from Gardeners Road. The crossover located to the centre of the site is currently being used for construction access however, following completion of the building the will be removed. The crossover on Gardeners Road located closest to the subject site's eastern boundary has been approved for removal under the Stage 1 consent as this part of the site is dedicated for the future road. The existing vehicle footway crossover located close to the western boundary is approved to be retained and used for some vehicles however, most vehicle will enter and exit from the Bourke Road entrance. The subject application proposes no changes to the vehicle footway crossover setup as approved under the Stage 1 consent. It is noted that a 3.5m wide piece of land fronting Gardeners Road and this site has been acquired by the Roads and Maritime Services for the purposes of road widening.
31. Plans and elevations of the proposed development are provided below.

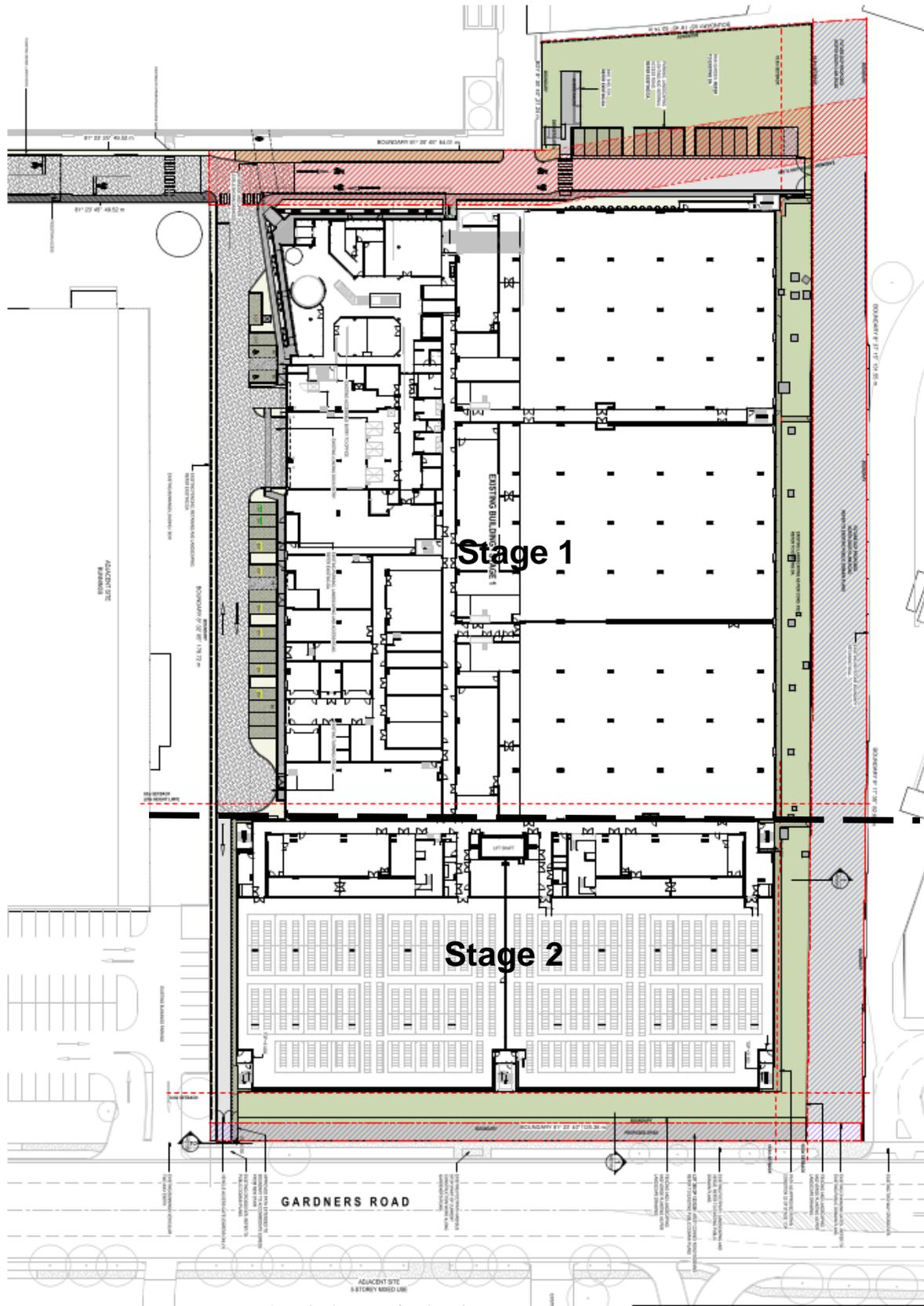


Figure 26: Proposed site plan for stage 2 as labelled and below the dashed black line

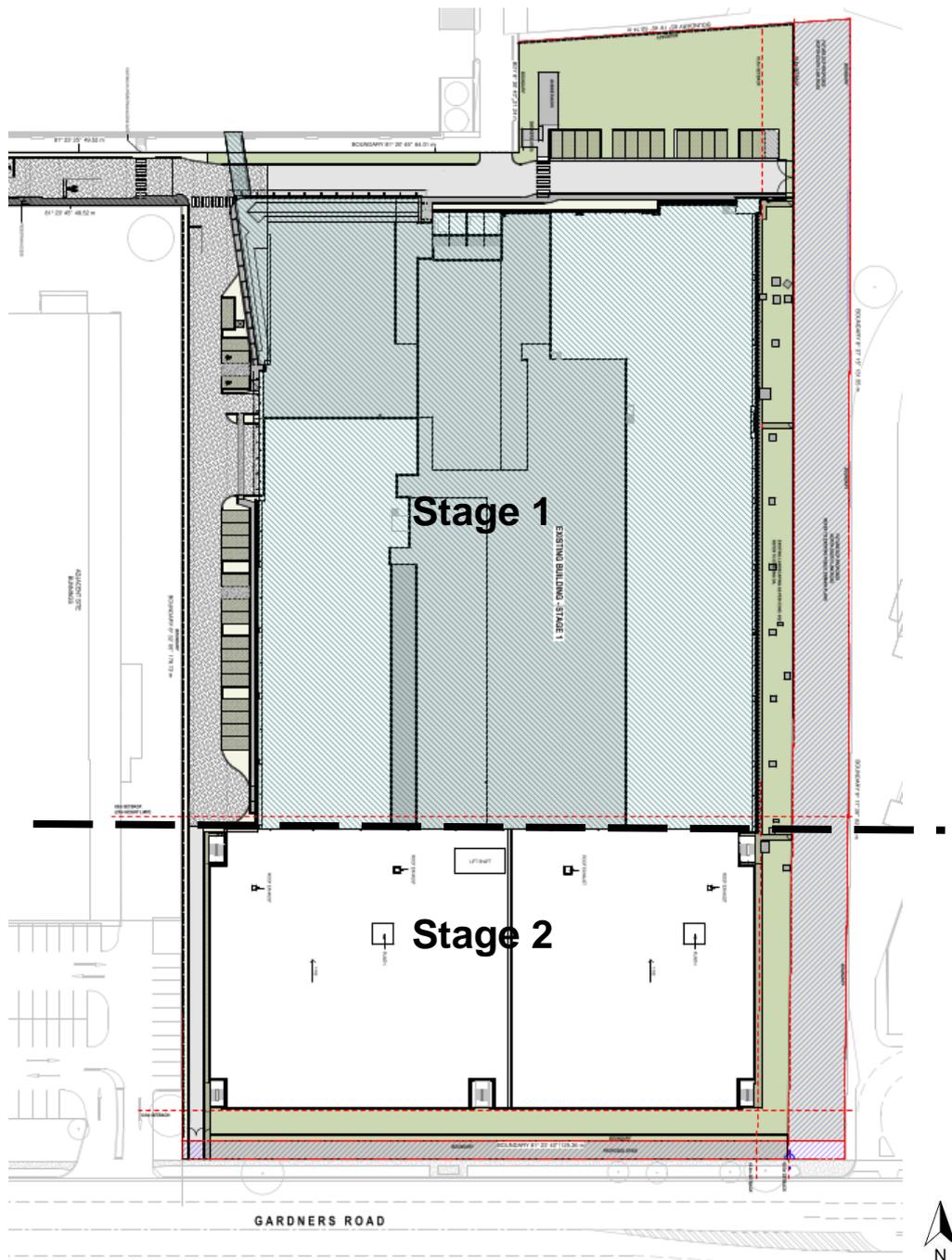


Figure 27: Proposed roof plan of stage 2 as labelled and below the dashed black line





Figure 29: Proposed second and third floorplans - stage 2 only

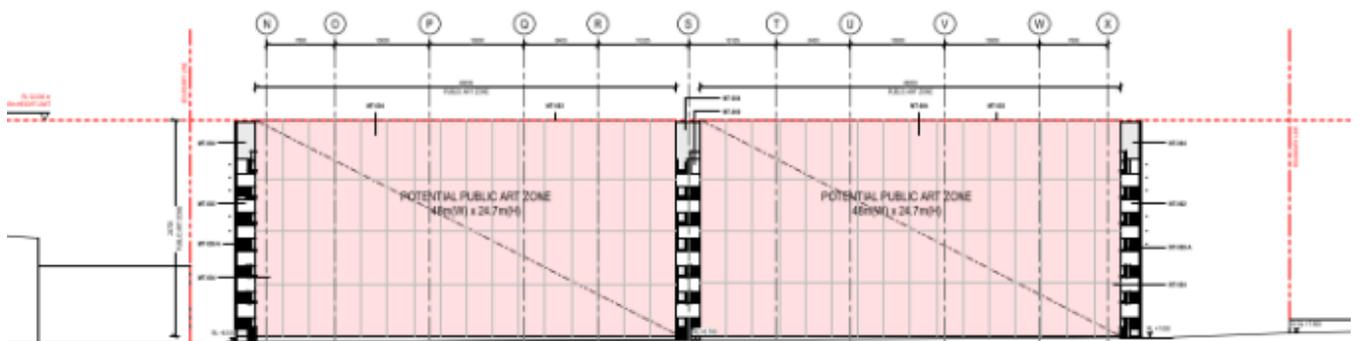


Figure 30: Proposed southern (Gardeners Road frontage) elevation including future public art zones

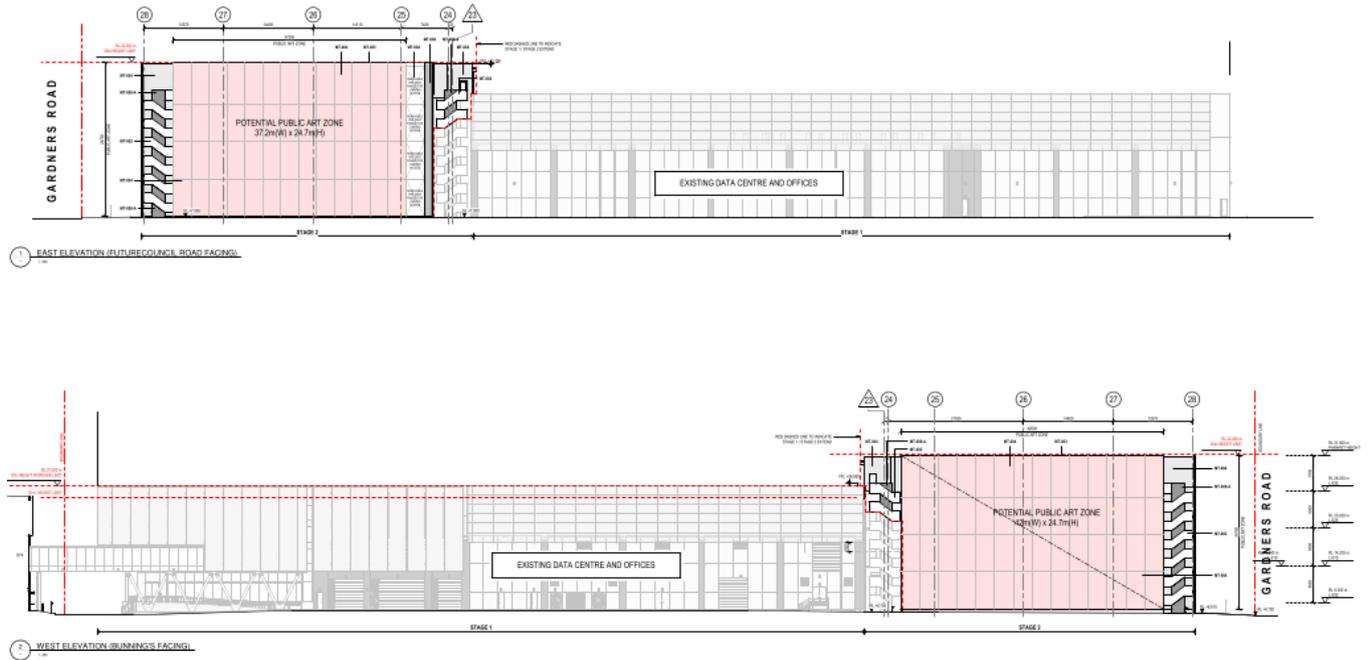


Figure 31: Existing / proposed east elevation and west elevations, including future public art zones

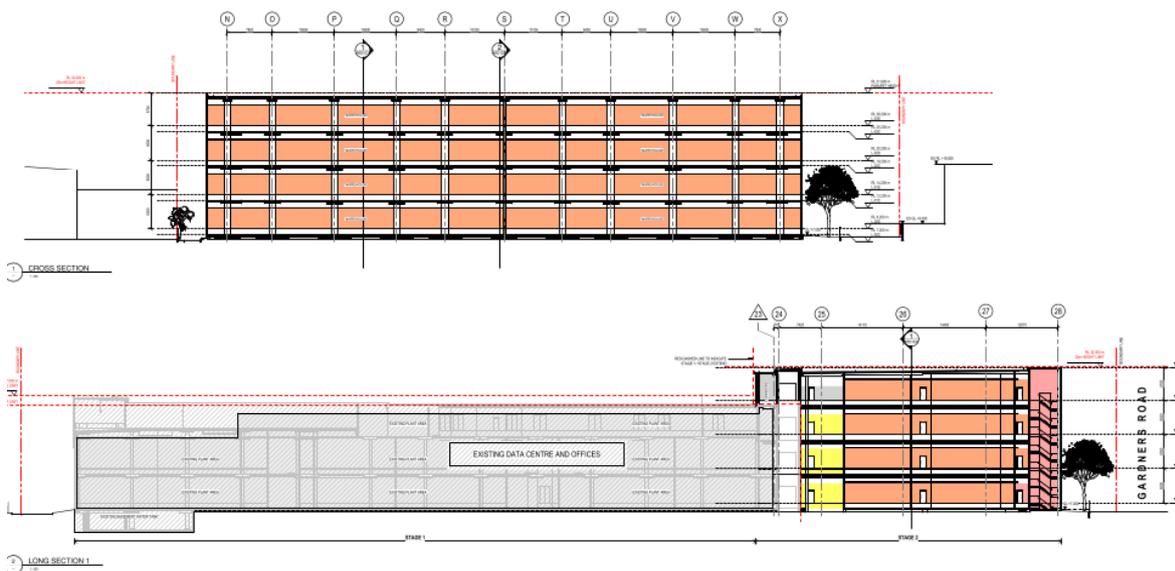


Figure 32: Proposed sections



**Figure 33:** Proposed photomontage, viewed from Gardeners Road. It is noted that all visible facades are to include public art as described in the public art strategy submitted with the application and shown on the elevation plans. The front setback from Gardeners road also includes 6m of deep soil landscaping and a 1.8m high palisade fence behind planting.

## Assessment

32. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act) including consideration of the Environmental Planning Instruments and DCPs.

## Consistency with Stage 1 Consent

33. The provisions of Clause 4.24 of the EP&A Act, 1979 state that where a Stage 1 development consent for a site remains in force, that the determination of any further development application in respect to that site cannot be inconsistent with the Stage 1 consent.
34. The proposed Stage 2 building complies with the requirements of the concept plan. The table, below, provides an assessment of the proposed development against the key concept approval conditions imposed on the Stage 1 development consent, being D/2017/1797, that relate to the Stage 2 detail design.

Stage 1 consent requirement	Compliance	Comment
<p><b>Envelope Setbacks</b></p> <p>The building envelope is to be setback 6 metres from the Gardeners Road frontage and setback 6 metres from the future road located along the eastern portion of the site. The building is setback a minimum of 4.708m from the western site boundary.</p>	Yes	The stage 2 building is setback a minimum 6 metres from the Gardeners Road frontage and future road and 5m from the western site boundary.
<p><b>Building Height (Condition 3)</b></p> <p>The stage 2 building including services is to be contained wholly within the approved building footprint and envelope. The approved building footprint is of a maximum height of 25 metres which is shown as RL 32.00 on the approved plans.</p>	Yes	The stage 2 building is proposed to be a height of 24.9m of RL 31.90 which is within the maximum height permitted in accordance with this condition.
<p><b>Floor Space Ratio (Condition 4)</b></p> <p>The combined floor space ratio of the stage 1 and stage 2 buildings must not exceed the maximum FSR permissible on the site which is 1.5:1 or 38,670sqm.</p>	Yes	The combined FSR of the stage 1 and stage 2 data centre is proposed to be 1.37:1 or 35,326sqm which is compliant with the maximum FSR of the site and this condition.
<p><b>Acoustic Report (Condition 5)</b></p> <p>This condition requires an Acoustic Impact Assessment to be submitted with the stage 2 development.</p>	Yes	An Acoustic Impact Assessment prepared by Aurecon was provided which recommends that there will be no adverse acoustic impact from the operation of the new stage 2 building as there is no external plant and machinery proposed and all the plant/equipment that is located internally are within enclosed spaces with no openings along the facade.

Stage 1 consent requirement	Compliance	Comment
		<p>City's Health and Building Unit has reviewed this assessment and has recommended that the operation of the stage 2 building will not have any adverse noise impacts and is considered to satisfy this stage 1 concept approval condition</p> <p>Therefore, this stage 1 concept approval conditions are considered to be satisfied.</p>

## State Environmental Planning Policies

### State Environmental Planning Policy No 55 - Remediation of Land

35. The aim of State Environmental Planning Policy (SEPP) No 55 is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
36. The site has been subjected to previous remediation in 2012 following development consent D/2011/636 which subdivided the land into two lots known now as 200 Bourke Road and 506 Gardeners Road. This made the site suitable for commercial and industrial usage along with the implementation of an Environmental Management Plan (EMP) which included measures to manage residual contamination for the whole site. An EMP was required as contamination (asbestos in soil) has been retained at the site under a clean capping layer which consists of natural soils and sand to make the site suitable for use.
37. The stage 1 consent approved a Remedial Action Plan (RAP) prepared by Aurecon, reference 253793.007 Rev 2. This resulted in a Site Audit Statement (SAS) and EMP being issued. The SAS stated the site is suitable subject to implementation of two EMP's. The EMPs relate to the ongoing management of the Stage 1 data centre building and internal roads adjoining to the north and west, and the rear carparking and open space area. The other EMP relates to the 10.5m wide strip of land to be transferred to Council. The SAS and EMPs have been accepted and endorsed by Council officers on 9 July 2021. Management requirements under the EMP for the stage 1 site is passive and requires maintenance of the clean capping layer and residual asbestos is appropriately managed. Management requirements under the EMP for the land to be transferred to Council is also passive and require the maintenance of 1.5m depth of clean capping.

38. A RAP prepared by Aurecon, reference 253793.007 Rev 5, relating to the stage 2 development site, accompanied by a letter of interim advice has been submitted with this development application. The remediation strategy relates to Stage 2 site, the internal road adjoining to the west, and the adjoining landscape areas within the eastern and southern setback areas. The RAP provides recommendations for retention of an existing clean capping layer and remediation measures throughout the development process. An EMP will need to be issued for the stage 2 site to provide ongoing management measures for the residual contamination. Conditions are recommended to ensure that the resulting EMP is passive and does not require any ongoing monitoring or reporting other than ensuring the clean capping layer and residual asbestos is maintained. A condition is also recommended to ensure the land that is to be transferred to Council is capped by a minimum 1.5m depth of clean fill as per the stage 1 consent.
39. The Council's Health Unit has reviewed the information provided, and has recommended conditions of consent to ensure compliance with the remediation measures outlined including an EMP and SAS to be issued for the stage 2 site, and for Council to be notified should there be any changes to the strategy for remediation.
40. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

#### **State Environmental Planning Policy (Infrastructure) 2007**

41. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

#### Clause 45 Determination of development applications – other development

42. The application is subject to Clause 45 of the SEPP as the development is like to affect an electricity transmission or distribution network.
43. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised.

#### Clause 101 – Development with frontage to classified road

44. The application is subject to Clause 101 of the SEPP as the site has frontage to Gardeners Road which is a classified road.
45. The proposed development is considered to satisfy the provisions of Clause 101, subject to conditions of consent, as:
  - (a) the main vehicular access to the site is off Bourke Road;
  - (b) there are two existing vehicular access points off Gardeners Road and the stage 1 development consent removed one of these vehicular access points for the future road located close to the eastern boundary of the site. The retained existing vehicle access point is located close to the western boundary of the site with no issues raised by TfNSW for the ongoing use and operation of this crossover;
  - (c) the proposed development is a type that is not sensitive to traffic noise or vehicle emissions; and

- (d) given the above, the proposed development is considered to be able to operate without unacceptable impact to the safety, efficiency, and ongoing operation of the classified road.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

46. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

#### Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the IN1 General Industrial zone. The proposed development is defined as data centre and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

#### Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	<p>There are two separate building height development standards that apply to the wider site, which are 18 and 25m.</p> <p>The 25m height of building control (RL 32.00) is located on the Gardeners Road frontage for a depth of approximately 60m. The subject Stage 2 building is proposed within the 25m height of building control. The proposed height of the Stage 2 building is 24.9m (RL 31.90) which is within the maximum height permitted under this clause and also within the maximum 25m height permitted under the stage 1 concept approval.</p> <p>As noted above, no rooftop plant area and generators are proposed to the stage 2 building.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 1.5:1 or 38,670sqm is permitted for the site.</p> <p>A FSR of 0.75:1 or 19,395sqm is approved for the Stage 1 data centre.</p> <p>A FSR of 0.62:1 or 15,931sqm is proposed for the Stage 2 data centre.</p>

Provision	Compliance	Comment
		The combined FSR of the Stage 1 and Stage 2 data centre is proposed to be 1.37:1 or 35,326sqm which is compliant with the maximum FSR and with Stage 1 concept approval conditions.

#### Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The site and proposal do not trigger a design competition as it is below 25m in height and within an IN1 zone.</p> <p>The proposal is of a height, bulk and scale that is compliant with the SLEP and SDCP and is compatible with the surrounding built form and streetscape.</p> <p>The external treatment of the facade comprises precast concrete panelling which are appropriate to the building type and industrial zone location and proposes open articulated steel balustrade staircases to the corners and centre of the building to provide visual interest. The materials and design of the building results in a facade treatment that will facilitate the provision of significant public art which will add interest to the building and improve the quality and amenity of the public domain and contribute positively to the character of the area.</p> <p>A successful landscape design is integrated with the development to improve the public domain. Furthermore, the development results in reasonable environmental impacts ensuring that there is no adverse overshadowing impact and sustainability initiatives have been incorporated into the design.</p> <p>Conditions are recommended to ensure the final public artwork design is of a high quality standard and the sustainability initiatives are achieved.</p>

Provision	Compliance	Comment
		Therefore, the development achieves design excellence. See further discussion in the 'Design' section below.

#### Part 7 Local provisions – general

Provision	Compliance	Comment
7.1 Car parking ancillary to other development	Yes	The stage 1 development approved 33 car parking spaces which includes 2 accessible spaces for the site. No further car parking space has been proposed in the stage 2 development proposal.
7.13 Affordable housing	Yes	The site is within the Southern Employment Land and therefore, subject to this clause. However, in accordance was Clause 7.13(6)(e)(i), as the building is within Zone IN1 General Industrial, the development is exempt from an affordable housing contribution.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land within class 3 Acid Sulfate Soils. An Acid Sulfate Soil Management Plan was submitted with the stage 1 development proposal for the site and was considered satisfactory by City's Health Unit. A condition is recommended in the stage 1 development consent to ensure that the Acid Sulfate Soil Management Plan is complied with during construction.
7.15 Flood planning	Yes	The site is identified as being subject to flooding however, City's Public Domain Unit supports the proposal as flooding to this portion of the site is considered minor and the proposed floor finish level has diminished any adverse flood impacts.
7.16 Airspace operations	Yes	Sydney Airport has provided approval for the proposed development to penetrate the prescribe airspace. See discussion under the 'External Referrals' section.

Provision	Compliance	Comment
7.17 Development in areas subject to airport noise	Yes	The proposed development is located within ANEF Contour 20 however, the proposed use is for a high technology data centre which is not a sensitive use.
7.19 Demolition must not result in long term adverse visual impact	Yes	No demolition works are proposed as part of the subject application as the site is already vacant. The proposed development will result in the comprehensive redevelopment of this currently vacant southern portion of the site.
7.20 Development requiring or authorising preparation of a development control plan	Yes	<p>As the site is zoned IN1 General Industrial, the preparation of a site specific DCP or concept plan application is not required pursuant to clause 7.20(2)(b) of the SLEP 2012.</p> <p>The applicant had voluntarily elected for a concept approval as part of the Stage 1 DA for the subject data centre located to the southern portion of the site.</p>
7.25 Sustainable transport of southern employment land	Yes	<p>The Stage 1 development approval provides for 33 car parking spaces. This may encourage employees and visitors of the site to use sustainable modes of transport.</p> <p>In addition, the Stage 1 consent provides for 40 bicycle parking spaces and adequate end of trip facilities with the Bourke Road separated cycleway located adjacent to the entrance of the site.</p> <p>Bus stops are located in close proximity to the site along Bourke Road and Gardeners Road and Mascot train station is located a 10 min walk from the site.</p>

Provision	Compliance	Comment
		<p>A condition of consent is recommended for a Transport Access Guide (TAG) to be prepared and submitted to Council to encourage walking, cycling and the use of public transport to and from the site by staff and visitors.</p> <p>It is considered that the proposal, subject to conditions, will not result in unreasonable traffic congestion and will promote sustainable transport modes.</p>

## Development Control Plans

### Sydney Development Control Plan 2012

47. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

#### Section 2 – Locality Statements

48. The site is located within the Alexandra Canal locality. The locality statement aims to accommodate industrial uses, including population serving industrial businesses essential to the efficient functioning of a growing inner-City residential population. New streets are required to deliver additional local connections, providing alternative routes within the area, and connecting to the main roads.
49. The proposed development will provide a data centre facility for local and national businesses competing in the digital economy. The proposal will also transfer land to allow future delivery of a connecting road from Gardeners Road to Doody Street. Therefore, the proposed development is in keeping with the unique character and the design principles of the Alexandra Canal locality.

#### Section 3 – General Provisions

Provision	Compliance	Comment
<p>3.1 Public Domain Elements</p> <p>3.1.1 Street, lanes and footpaths</p>	Yes	<p>The development is dedicating land to Council towards the delivery of a future connecting road from Gardeners Road to Doody Street in accordance with Clause 3.1.1 of the SDCP 2012 which will make a positive contribution to the public domain. Conditions are recommended require the development to be in accordance with the associated planning agreement.</p>

Provision	Compliance	Comment
		<p>There are three existing vehicle footway crossovers for the site from Gardeners Road. The crossover located to the centre is currently being used for construction access of the site however, following completion the crossover will be removed. The crossover on Gardeners Road located closest to the subject site's eastern boundary has been approved for removal under the stage 1 consent as this part of the site is dedicated for the future road. The existing vehicle footway crossover located close to the western boundary is approved to be retained and used for some vehicles however, most transport is to enter and exit from the Bourke Road entrance. The subject application proposes no changes to the vehicle footway crossover setup as approved under the stage 1 consent however a public domain plan condition is recommended to ensure that the redundant and eastern crossover is removed as per the stage 1 consent.</p> <p>In addition, a 3.5m wide strip of land to the Gardeners Road frontage has also been acquired by Transport of NSW to be used for the purposes of the widening of the road and the proposal includes a range of native shrubs to the frontage and large tree species which will improve the pedestrian and vehicle amenity.</p>
<p>3.1.5 Public Art 3.1.6 Sites greater than 5,000sqm</p>	<p>Yes</p>	<p>As the site is over 5,000sqm, public art is required. Given the scale of the proposed data centre and its visual prominence the applicant is providing substantial public art to all exposed facades to ensure the building makes a positive contribution to the public domain.</p> <p>The City's Public Art Unit has reviewed the submitted preliminary public art plan and recommends the proposal will be able to achieve compliance with the public art provisions in this clause and will ensure the public artwork is of high quality that will improve the amenity of the public domain and achieve design excellence.</p>

Provision	Compliance	Comment
		See further discussion below under the heading 'Treatment of the facades'.
3.2. Defining the Public Domain	Yes	<p>The proposed treatment to the facades will incorporate materials and finishes and public artwork that is of high standard and quality and will be of visual interest and an appropriate interface with the public domain. The proposal successfully integrates a high-quality landscape design to improve the public domain</p> <p>A condition of consent is recommended requiring that the reflectivity from the building materials must not exceed 20%.</p> <p>Development consent D/2019/448 was granted for external lighting to the site.</p>
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.</p> <p>The land to be dedicated to Council will be temporarily landscaped rather than leaving this land vacant which will provide a temporary habitat for local fauna.</p> <p>Landscaping has been approved under the Stage 1 consent which provides 118 small to large trees located to the perimeter of site. As a result, the landscaping of the site achieves a minimum of 15% canopy coverage which is in accordance with Clause 3.5.2 of the SDCP 2012.</p> <p>In general, the proposed landscaping to the site and land to be dedicated will make a positive contribution to the local urban ecology. See further discussion below under the heading 'Landscaping'.</p>

Provision	Compliance	Comment
3.6 Ecologically Sustainable Development	Yes	<p>Data centres consume high levels of energy. The applicant has submitted a Design for Environmental Performance report which includes sustainability initiatives to reduce/mitigate the high levels of energy consumption. Such initiatives include implementation of high efficiency heating, ventilation, cooling and lighting equipment and the use of a metering and monitoring system on the energy consumption to achieve a Leadership in Energy and Environmental Design (LEED) certification. This is an internationally recognised green building certification that is optional and was chosen by the applicant for the Stage 1 data centre to demonstrate the buildings commitments to sustainable and renewable living. Rainwater harvesting is also implemented to service the mechanical service systems, toilet flushing and landscaping for the entire site.</p> <p>The sustainability initiatives have been reviewed by the City's Environmental Sustainability Advisor and are considered to be acceptable subject to a condition recommending compliance with the design for environmental performance report submitted.</p> <p>A condition is also recommended for the installation of dual-flush toilets, water efficient taps and urinals, and efficient internal lighting system in accordance with this clause.</p>
3.7 Water and Flood Management	Yes	<p>Flood management has been discussed in the SLEP 2012 compliance table. A condition is recommended to ensure appropriate stormwater management is provided.</p>
3.11 Transport and Parking 3.11.3 Bike parking and associated facilities 3.11.4 Vehicle parking 3.11.9 Accessible parking 3.11.6 Service vehicle parking	Yes	<p>As discussed in the SLEP 2012 compliance table, the Stage 1 development consent includes 33 car parking spaces (including accessible parking), 40 bicycle spaces and end of trip facilities to service the transport and parking needs of the employees and visitors to the site.</p>

Provision	Compliance	Comment
3.11.3 Design and location of waste collection points and loading areas		<p>As addressed in the Stage 1 consent, a loading dock and waste collection facilities are accommodated within the western side of the stage 1 data centre and is access from the internal private road off Bourke Road. The design of the facilities allows trucks to exit the site in a forward direction and is capable of servicing the predicted daily heavy vehicle movements.</p> <p>City's Transport Planner considers that the approved car parking, bicycle parking, end of trip facilities and loading/servicing area provided as part of the Stage 1 consent will adequately meet the transport and parking needs for the entire site.</p>
3.12 Accessible Design	Yes	A condition is recommended for the development to provide appropriate access and facilities for persons with disabilities in accordance with the SDCP 2012 and the BCA.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	<p>Adequate waste storage and collection facilities have been provided within the stage 1 data centre which is accessed from the internal private road running along the western boundary.</p> <p>A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
3.15 Late Night Trading Management	Yes	<p>The proposed hours of operation are 24 hours a day, 7 days week. The Stage 1 data centre is approved for these operating hours.</p> <p>Adjoining the sites to the north, east and west are industrial and commercial uses. Located on the opposite side of Gardeners Road are two mixed used residential flat buildings.</p>

Provision	Compliance	Comment
		<p>As the proposal is for data centre, the proposed use is not expected to generate unreasonable noise level. An Acoustic Impact Assessment prepared by Aurecon was provided which recommends that there will be no adverse acoustic impact from the operation of the new Stage 2 building as there is no external plant and machinery proposed and all the plant/equipment that is located internally are within enclosed spaces with no openings along the facade.</p> <p>The city's Health and Building Unit does not consider that the development will have adverse noise and amenity impacts.</p>
3.16 Signage and Advertising	Yes	No signage is proposed under this application. A condition is recommended requiring that signage be subject to a separate application, where it is not classified as exempt development.

#### Section 4 – Development Types

##### 4. Section 5 – Southern Employment Land

Provision	Compliance	Comment
5.8.1 General	Yes	The proposal is consistent with the Southern Employment Lands Urban Strategy and the character statement as discussed in Section 2 of the SDCP compliance table
5.8.2.2 Building setbacks	Yes	The site contains land to be dedicated for the delivery of a future which runs north-south along the eastern boundary of the site. This clause requires a setback of 6m from the road reserve. The proposed stage 2 data centre is setback a minimum 6m from this future road reserve and therefore complies.

Provision	Compliance	Comment
		The building setback alignment map under this clause also requires a 5m landscaped setback from Gardeners Road. The proposed stage 2 data centre is setback 6m from the Gardeners Road boundary and includes deep soil and large tree planting within the landscaped setback area and therefore complies.
5.8.2.3 Building height	Yes	The maximum number of storeys applying to the stage 2 site is 6 storeys. The proposed development is 4 storeys
5.8.2.4 Building layout and design	Yes	The proposed treatment to the facades will incorporate materials and finishes and public artwork that is of high standard and quality and will be of visual interest and an appropriate interface with the public domain. The built form, scale and design is similar to surrounding industrial buildings in the southern employment lands. Refer to issues section regarding the development and implementation of public art.
5.8.2.5.1 Landscaping	Yes	<p>A minimum of 15% of the site area is to contain deep soil planting and deep soil planting provided in the front building setback. The stage 1 consent included the site works which approved a deep soil area of 13% for the site and 6m of deep soil are to the front building setback. No changes are proposed to the deep soil area of the site.</p> <p>See further discussion below under the heading 'Landscaping'.</p>
5.8.2.5.2 Fences	Yes	This clause stipulates that fences are not permitted between the building and the primary street frontage. Where front fencing is required for security purposes, it is to be screened by the landscape setback. Fences are not permitted to be solid and must not exceed 1.8m in height.

Provision	Compliance	Comment
		The palisade fence within the Gardeners Road landscaped setback was approved as part of the Stage 1 consent and is required for security purposes due to the nature of the use. The fence is 1.8m high and includes landscaping in front to screen the fences.
5.8.2.5.3 Private communal open space	Yes	As part of the Stage 1 consent, the site provides approximately 122sqm of communal open space for employees located at level 3 within the office section of the Stage 1 data centre which complies with the minimum 100sqm requirement.
5.8.2.6 Parking, access, loading and servicing	Yes	<p>Car parking and loading areas are screened from the public domain. As part of the Stage 1 consent, the site provides adequate loading areas to allow for all servicing, including garbage collection, to occur from the site. All vehicles can enter and leave the site in a forward direction.</p> <p>The proposal includes separated pedestrian pathways to the Stage 2 building from both Bourke Street and within the site from the car and bicycle parking areas.</p>
5.8.2.7 Storage area	Yes	All storage areas are accommodated within the building
5.8.3.2 Proposes streets and through-site links	Yes	As discussed, the Stage 1 consent and associated planning agreement includes land to be dedicated to the Council for the future delivery of a road connecting Gardeners Road to Doody Street. The stage 2 development proposal does not impact on the delivery of this road.

Provision	Compliance	Comment
5.8.7.1 Stormwater management and waterways	Yes	There is a stormwater easement on the site benefitting the City for overland flow. The easement is located where the existing internal road is running west to east. The drainage infrastructure for site was approved under the stage 1 consent which included the use this easement as an overflow channel. A condition is recommended to ensure the ongoing stormwater management of this new development.

## Discussion

### Design

50. In accordance with Clause 6.21(4)(a) and (b) Design Excellence of the SLEP 2012 development is to have a high standard of architectural design, materials and detailing appropriate to the building type and location, and the form and external appearance of the proposed development will improve the quality and amenity of the public domain.
51. In addition, the development is to address matters such as bulk and massing, environmental impacts such as sustainable design and overshadowing, integration of landscape design as per Clause 6.21(4)(d) of the SLEP 2012.
52. The bulk and scale of the building is compliant with the height and floor space ratio development standards under the SLEP 2012 and the setbacks and form are consistent with the Stage 1 concept approval. As a result, the proposed built form is compatible with the surrounding development and streetscape.
53. The proposal includes open steel balustrade staircases to the corners and centre of the building that provides articulation in the built form and visual interest. The external treatment of the facade comprises precast concrete panelling which are appropriate to the building type and industrial zone location and has also been used for the Stage 1 data centre. The materials and design of the building results in a facade treatment that will facilitate the provision of significant public art which will add interest to the building and improve the quality and amenity of the public domain and contribute positively to the character of the area.
54. As discussed below and throughout the report, the proposal successfully integrates a high-quality landscape design to improve the public domain. The proposal includes acceptable sustainability initiatives to reduce/mitigate the high levels of energy consumption. Furthermore, the proposed development will have an acceptable solar access impact to the neighbouring properties.
55. Given the above, the proposed development demonstrates design excellence in accordance with Clause 6.21(4) of the SLEP 2012 and will be enhanced by the public art and therefore can be supported.

## Landscaping

56. Clause 5.8.2.5.1 of the SDCP 2012 stipulates that where a site is located within the IN1 General Industrial zone, a minimum of 15% of the site area is to contain deep soil planting and deep soil planting is to be provided in the front building setback.
57. The Stage 1 consent included the site works which approved a deep soil area of 13% for the site. This figure is taken on the basis that the site includes the area of land to be transferred for the future road. The deep soil area is 14% of the site when taken on the basis from after the land has been transferred to Council. See Figure 34 below showing the deep soil areas and calculation. The Stage 2 application proposes no changes to the approved deep soil area for the site with the building being contained wholly within the approved concept envelope.
58. Along with this consent, a landscaping plan prepared by landscape architects Arcadia was approved by Council and reviewed by the City's Landscape and Tree Management Unit. See Figure 35 of landscaping masterplan. The landscaping includes 118 trees to be planted to the perimeter which range of small, medium to large canopy spread trees and consists of trees that are endemic to the Sydney region to ensure the longevity of the landscaping. The tree canopy spread results in a minimum of 15% canopy coverage which is compliant with Clause 3.4 of the SDCP 2012 and will improve the environmental impact of this development.
59. The trees approved to the front building setback to Gardeners Road consist of 10 large Spotted Gum trees that mature to a height of 30 metres and a canopy spread of 12 metres. In time, these trees will extend above the proposed building (building height is 25m) noting that the photomontage in Figure 34 shows the trees not at mature height and spread. These large trees will improve the visual presentation and relationship of the building to Gardeners Road and help soften the scale of the building. Raingardens and native shrubs and grasses are integrated to the front building setback area and along the eastern (future road) boundary which will also help soften the development and partially screen the boundary fences and improve the pedestrian amenity. The proposed front boundary fence is also designed to not impact the roots and health of the trees.
60. The Stage 1 data centre has been built to the approved concept envelope but as result, has limited articulation given that no windows are required for the use. However, the landscaping and trees has been optimised in order to soften the scale of building and also make a positive contribution to the streetscape and pedestrian amenity and deliver native plantings. A condition is recommended approving the landscape plans prepared by Arcadia which shows all the trees and quantities being the same as the stage 1 approval with minor changes to the raingardens and native shrubs and grasses. This will ensure the landscape design is successfully integrated with stage 2.
61. Therefore, subject to the recommended conditions, the proposal successfully integrates a high-quality landscape design to improve the public domain. This combined with the delivery of public art, as discussed below, is considered to satisfy design excellence in accordance with Clause 6.21 of the SLEP 2012.

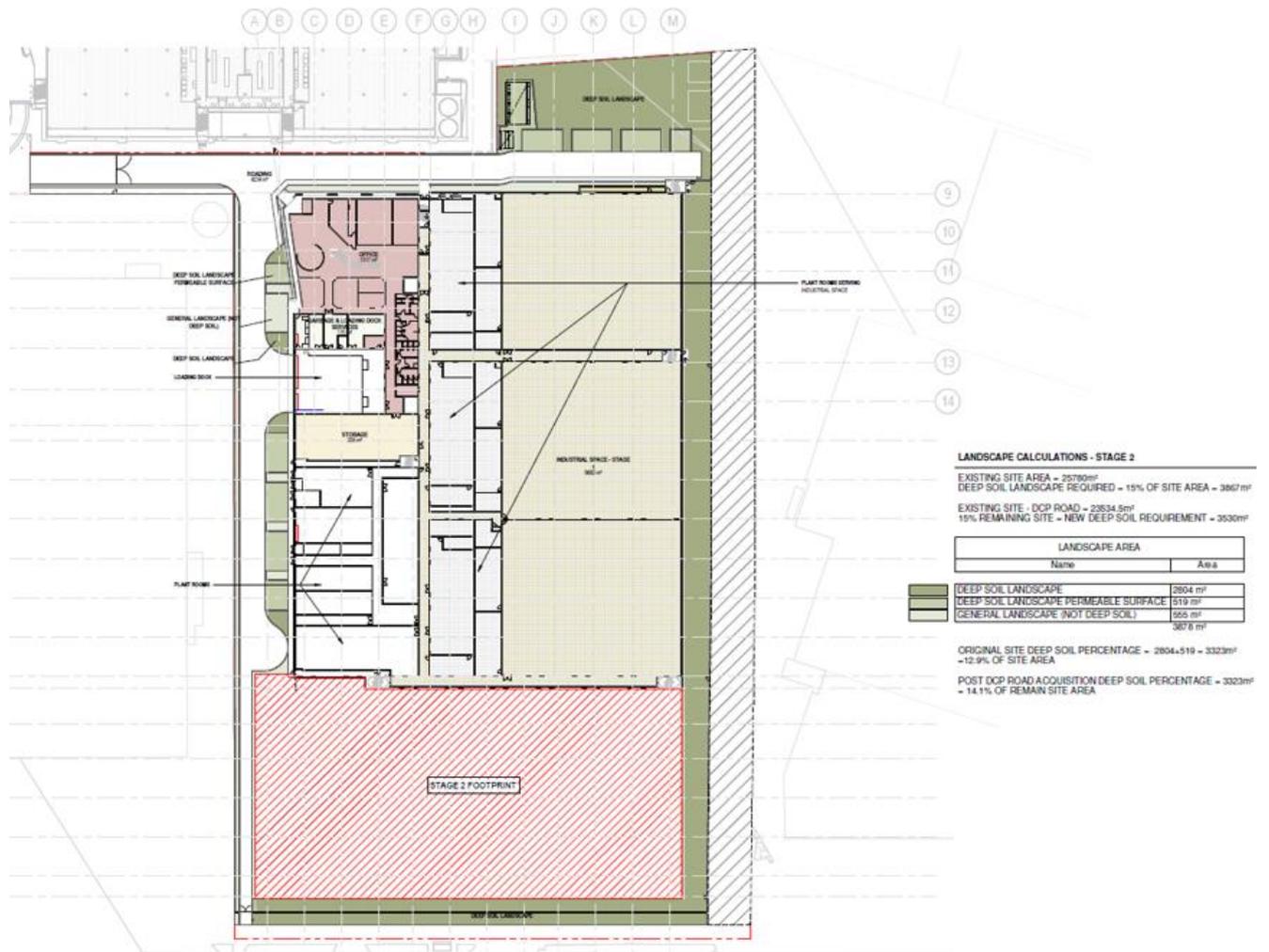


Figure 34: Deep soil plans and calculations approved under stage 1 consent for the entire site



**Figure 35:** Approved landscaping masterplan to entire site prepared by Arcadia

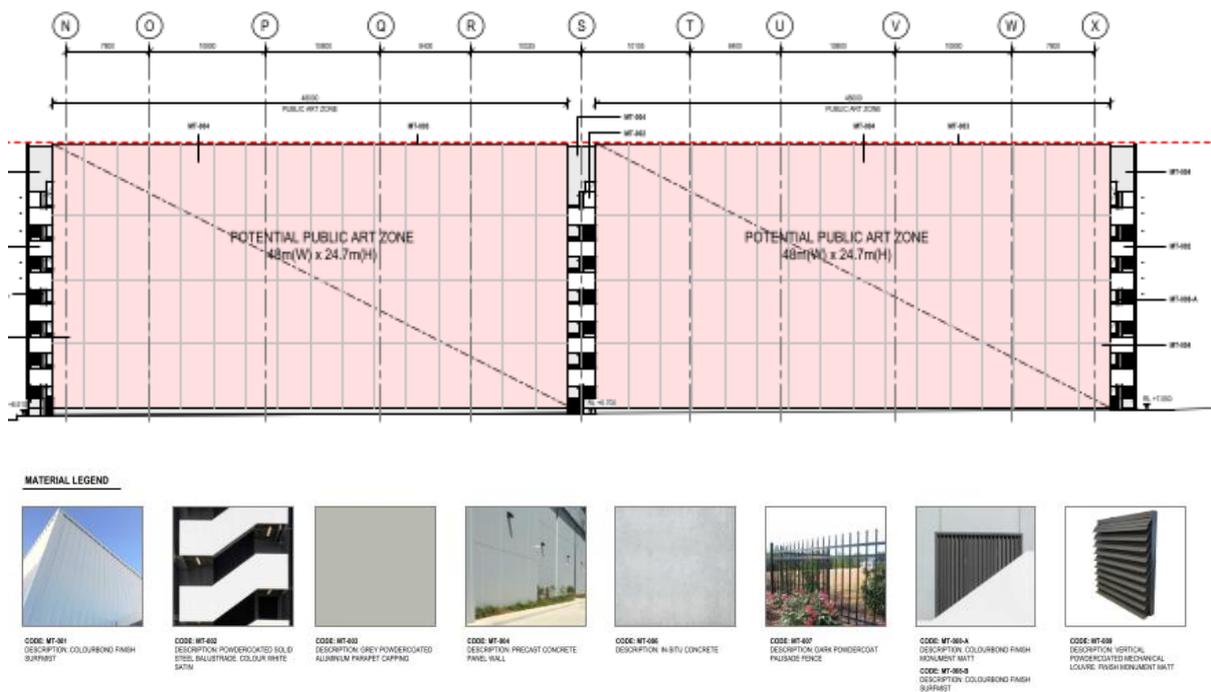


**Figure 36:** Proposed photomontage showing the approved landscaping to the site, noting that the trees fronting Gardeners Road can mature to a height of 30m which will extend above the building (building height is 25m)

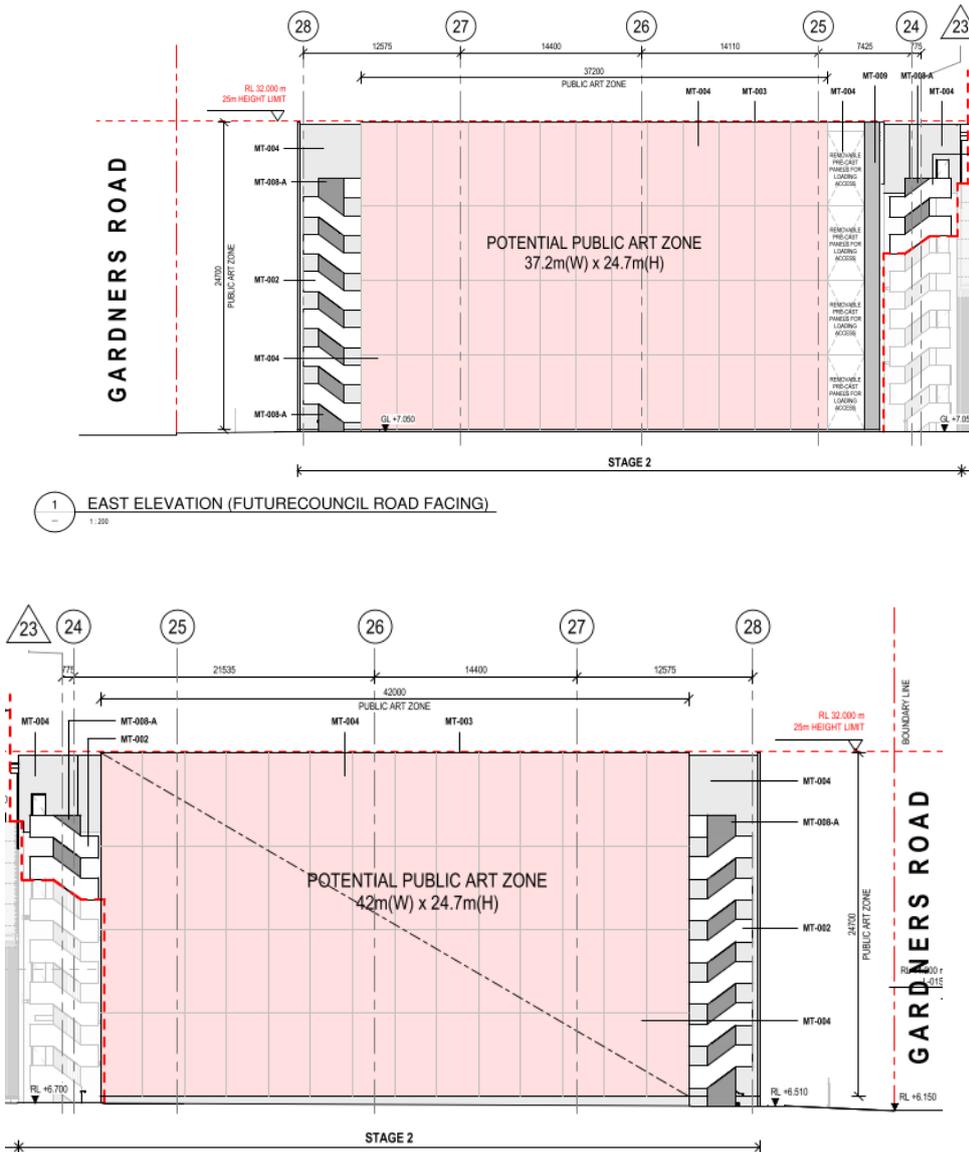
**Facade Treatment and Public Art Strategy**

62. The proposed data centre is located on the busy Gardeners Road and will also front a future north-south road on the eastern property boundary. The area contains a mixture of uses due to being on the southern edge of the City of Sydney LGA. The site is within the Southern Employment Lands which is characterised by large industrial and commercial development of similar scale to the proposed development. Opposite the site on Gardeners Road is the Bayside Council LGA which is characterised by residential flat and mixed use buildings and industrial buildings.
63. Given the scale of the proposed data centre and its prominent visibility the applicant proposes the provision of significant public art to all of the visible external facades (south, west, and east facades) in order to ensure the development provides a positive contribution to the public domain. Refer to figures 37 and 38 below.
64. The external treatment of the building comprises materials and finishes such as precast concrete panelling, and powder coated steel and aluminium. These materials and finishes are appropriate to the building type and industrial zone location and has also been used for the Stage 1 data centre. The materials and design of the building results in a facade treatment that will facilitate the provision of significant public art which can be applied and/or integrated to these walls.
65. The external appearance of the building is proposed to be enhanced by public artwork which is supported by a Preliminary Public Art Plan (Plan) prepared by Authority Creative, see Attachment C. As identified on the Plan, the intent of the public artwork is to create visual interest to reduce perceived bulk of the facade of the building. The public art intends to contribute to the cultural vitality of the area and enhance the visual amenity and vibrancy of the streetscape for pedestrians, residents and commuters.
66. The Plan includes a shortlist of Australian artist to foster local talent and has examples of their artwork which provides a concept understanding of the kinds of public art that is to be integrated into the facade. The examples from the artist Georgia Hill, Niah Mcleod and Otis Carey show the use of patterns, colours, and lights to create visual interest which in turn, will help reduce the perceive bulk of the building. As shown by the concept artwork, the public art could also include an Indigenous influence which will provide a connection to the area's history or use patterns that reflect the industrial nature of the area.
67. The Plan also outlines the budget for the public artwork to be a minimum of 1% (\$500,000) of the total construction cost of the development. The public art budget is sufficient to ensure a quality design and delivery is provided. The Plan also requires the commissioner to maintain the artwork to ensure its longevity.
68. The City's Public Art Unit has reviewed the proposed preliminary public art plan and recommends the proposal will be able to achieve compliance with the public art provisions in the SDCP 2012 and will improve the quality and amenity of the public domain.

69. A condition is recommended for the public artwork to be in accordance with the Preliminary Public Art Plan and the final details of the public art are to be finalised in consultation with the City's Public Art Team and approved by Director City Planning Development and Transport. The condition ensures that the final Detailed Public Art Plan that contains the public artwork concept is illustrated in such a way that the form, dimensions, materials, location lifespan and maintenance requirements of the artwork, are clearly communicated. A condition is also recommended for a positive covenant to be registered on title that the public art is to be maintained and retained unless it is replaced by a future approval for public art and/or building. These conditions ensure the public art is of a high-quality design and will improve the quality and amenity of the public domain.
70. Subject to the recommended conditions, the proposed high quality materials, public art to the facades and landscaping will add interest to the building and improve the quality and amenity of the public domain and contribute positively to the character of the area which demonstrates design excellence in accordance with Clause 6.21(4) of the SLEP 2012 and can be supported.



**Figure 37:** Proposed southern elevation (Gardeners Road) showing the public art zone to the facade and details of the materials, finishes and colours

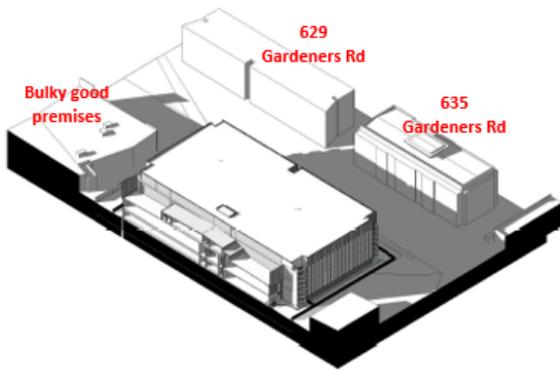


**Figure 38:** Proposed east elevation (future road) and west elevation showing the public art zone to the facade

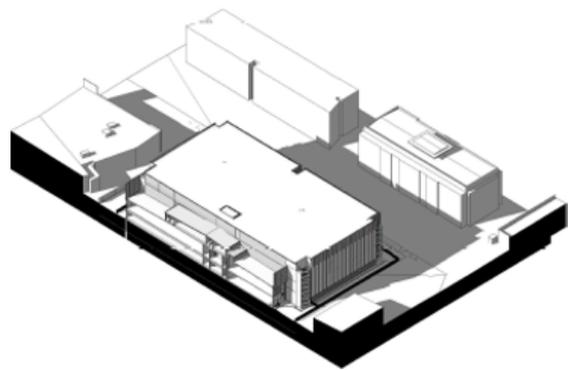
**Overshadowing**

- 71. The proposed data centre is opposite the residential apartments located to the south at 629 and 635 Gardeners Road. Both 629 and 635 Gardeners Road are 5 to 6 storey mixed used buildings with retail and commercial uses to the ground floor level and residential apartments above with balconies to Gardeners Road.

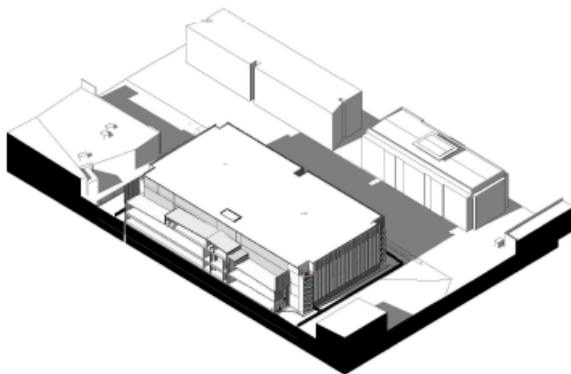
72. The applicant provided hourly shadow diagrams of 21 June from 9am to 3pm demonstrating the overshadowing impact of the proposed data. As shown in the diagrams in Figure 39, the proposed shadows predominantly fall onto Gardeners Road, the bulky good premises to the east and to the ground floor commercial uses of 629 and 635 Gardeners Road. The only overshadowing impact to the residential apartments is at 9am to the first floor level apartments at 635 Gardeners Road. Nonetheless, all residential apartments at 629 and 635 Gardeners Road receive full access to sunlight from 10am to 3pm (5 hours) which is more than the minimum requirement of 2 hours' sunlight to the living room windows and private open space as per Clause 4.2.3 of the SDCP 2012.
73. Given the above, the proposed development will have an acceptable solar access impact to the neighbouring properties.



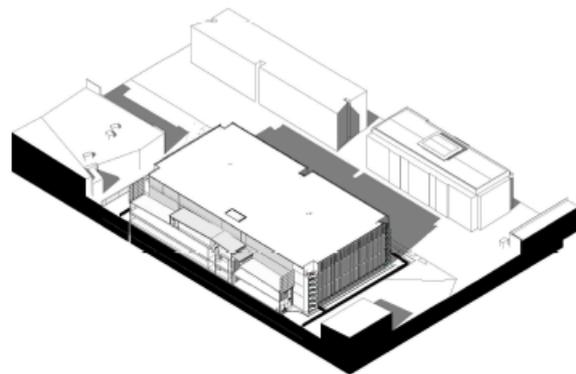
Neighbor buildings shadow analysis  
9.00 am - 21 June



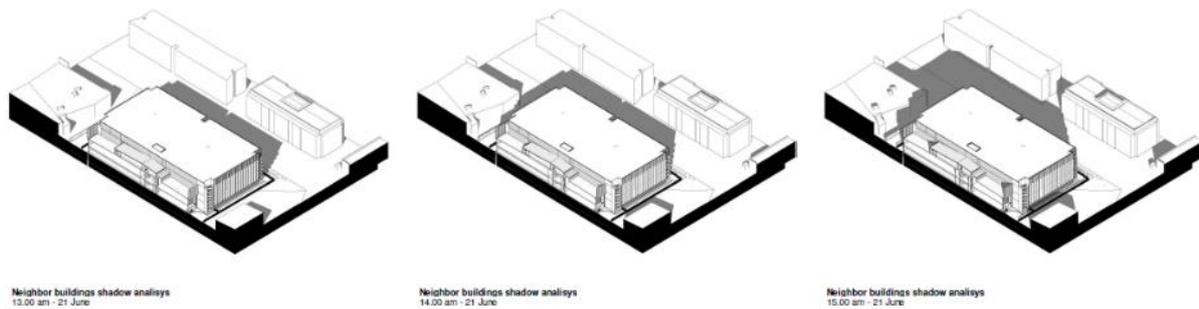
Neighbor buildings shadow analysis  
10.00 am - 21 June



Neighbor buildings shadow analysis  
11.00 am - 21 June



Neighbor buildings shadow analysis  
12.00 am - 21 June



**Figure 39:** Shadow diagrams of the proposed data centre from 9am to 3pm, 21 June

## Consultation

### Internal Referrals

74. The application was discussed with Council's:

- Public Art Unit;
- Landscape Unit;
- Urban Design Unit;
- Environmental Health Unit;
- Public Domain Unit;
- Building Services Unit;
- Surveyors;
- Transport and Access Unit;
- Tree Management Unit;
- Waste Management Unit; and
- Strategic Planning Unit.

75. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

76. Issues previously raised by internal units have been address through submission of satisfactory additional information and amended plans.

## External Referrals

### Ausgrid

77. Pursuant to Section 45 of the SEPP (Infrastructure) 2007, the application was referred to Ausgrid for comment.
78. A response was received on 6 March 2021 raising no objections to the proposed development, subject to conditions of consent. The recommended conditions of consent are included in the Notice of Determination.

### Sydney Airport

79. Section 182 of the Commonwealth Airports Act 1996 specifies that, amongst other things, constructing a building or other structure that intrudes into a prescribed airspace is a controlled activity.
80. Schedules 2 and 5 of the Civil Aviation (Building Control) Regulations 1988 identify that the site is subject to a prohibition of the construction of buildings more than 15.24 metre in height above existing ground level.
81. Section 183 of the Commonwealth Airports Act 1996 specifies that controlled activities may not be carried out in relation to prescribed airspace unless an approval has been granted. The relevant approval body is the Civil Aviation Safety Authority (CASA).
82. The Sydney Airport Airfield Design Manager, as an authorised person of the CASA, provided approval for the controlled activity on 7 June 2021.

### Transport for NSW

83. Pursuant to Clause 101 and 104 of the SEPP (Infrastructure) 2007, the application was referred to Transport for NSW (TfNSW) for comment.
84. Comments were received on 28 May 2021 raising no objections to the proposal, subject to conditions regarding that all buildings and structures and demolition and construction are to be wholly contained within the site, vehicles are to enter the site before stopping and a Construction Pedestrian Traffic Management Plan is required. The recommended conditions of consent are included in the Notice of Determination.

### Water NSW

85. The application was referred to Water NSW for comment. Comments were received on 10 May 2021 raising no objections to the proposal with requirements provided which is included in the Notice of Determination.

## Advertising and Notification

86. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 28 days between 12 February 2021 and 13 March 2021. A total of 83 properties were notified and no submissions were received.
87. It is noted City of Sydney contacted Bayside Council and provided the opportunity to provide City of Sydney the property details of those within 75m radius of the site as per the requirements of the City of Sydney Community Participation Plan. No property details were provided.

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

## Financial Contributions

### Contribution under Section 7.11 of the EP&A Act 1979

89. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
90. For the purpose of determining contributions the proposed use is best defined as 'light industry', which includes high technology. Based on this land use classification and the proposed gross floor area of 15,931sqm, the following monetary contribution is required towards the cost of public amenities:
- |                           |                |
|---------------------------|----------------|
| (a) Open Space            | \$701,628.28   |
| (b) Community Facilities  | \$109,080.55   |
| (c) Traffic and Transport | \$890,670.41   |
| (d) Stormwater Drainage   | \$352,200.75   |
| (e) Total                 | \$2,053,579.99 |
91. A condition relating to this development contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a construction certificate.

### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

92. The site is located within the the Southern Employment Lands affordable housing contribution area. However, in accordance was clause 7.13(6)(e)(i), as the building is within Zone IN1 General Industrial, the development is exempt from an affordable housing contribution.

## Relevant Legislation

93. Environmental Planning and Assessment Act 1979.

## Conclusion

94. The proposed development is considered to be appropriate within its setting and is generally compliant with the relevant planning controls contained in the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
95. The site is located within the Southern Employment Lands and the proposal is consistent with the Southern Employment Lands Urban Strategy, character statement and relevant development controls.

96. The proposed external materials and finishes is of a high standard and the proposed public art and landscaping to the site will improve the amenity of the public domain and positively contribute to the character of the area. As a result, the development achieves design excellence.
97. The proposed use is compatible with the predominant industrial nature of the area and will not unreasonably impact on the amenity of neighbouring properties.
98. Subject to the recommendations within this report, the proposal demonstrates a use and building that contributes to the existing and desired future character of the area.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Charise Chumroonridhi, Specialist Planner