

Our reference: P-1080772-X4R1
Contact: Robert Walker
Telephone: (02) 4732 7409

24 February 2026

NSW Department of Planning, Housing and Infrastructure
4 Parramatta Square, 12 Darcy Street
PARRAMATTA NSW 2124

Attention: Patrick Copas
Email: patrick.copas@planning.nsw.gov.au

Dear Patrick,

**Council Response to Request for Advice on Environmental Impact Statement
- SSD-77336995 – ‘Subdivision of 121 Willmington Road Luddenham’ at 2903-
3017 Park Road, Luddenham**

Thank you for providing Penrith City Council with the opportunity to comment on the subject Environmental Impact Statement (EIS).

Council has reviewed the information referred for comment on 16 January 2026 and the following matters are raised for the Department’s consideration:

1. Planning Considerations

- a) In the absence of development proposals for buildings on the site, the proposed bulk earthworks and tree / vegetation removal across proposed Lots 1, 3 and 4, is premature.
- b) In accordance with Part 2.17 of the Western Sydney Aerotropolis Development Control Plan 2024, benching / bulk earthworks should be limited to the proposed road areas and to within the first 15m of the proposed development lots (i.e. within the front / street setback areas).
- c) In accordance with Part 2.4.3 of the Western Sydney Aerotropolis Development Control Plan 2024, development is to be designed to minimise tree removal. The proposed tree removal across proposed

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Lots 1, 3 and 4, is inconsistent with this objective and control, and is inconsistent with the mitigation measures of the Cumberland Plain Conservation Plan.

- d) The Department should consider the supporting Biodiversity Management Plan, and whether the overall development mitigates biodiversity impacts. Furthermore, specific consideration should be given to fauna habitat removal, dam dewatering, fauna rescue and relocation, weed management, bush regeneration, and habitat supplementation.
- e) The Department should consider whether the proposal complies with the 'Strategic Biodiversity Certification' under the Biodiversity Conservation Act 2016 and the 'Strategic Assessment' provisions under the Environment Protection and Biodiversity Conservation Act 1999.
- f) The Department should consider whether the overall proposal, given the earthworks proposed across the broader site, suitably responds to the requirements of Recognise Country: Guidelines for Development in the Aerotropolis.
- g) It is noted that the Environmental Impact Statement includes the following response:

Movement of threatened species through the development site is unlikely and should not be encouraged through landscape solutions, given potential wildlife risk to airport operations and lack of connectivity due to major roadways and surrounding development.

In accordance with Section 4.28B of State Environmental Planning Policy (Precincts – Western Parkland City) 2021, Development Consent must not be granted, unless the consent authority has considered Recognise Country: Guidelines for Development in the Aerotropolis. It is unclear how the reasoning aligns with provisions of Recognise Country: Guidelines for Development in the Aerotropolis and Landscape Led Design.

- h) The remediation works approved pursuant to Development Consent No. DA24/0421, do not extend across the full extent of the development site

(i.e. the 'Project Area' identified within the Environmental Impact Statement). The Department should consider contamination and site suitability matters across the overall development site.

- i) The Environmental Impact Statement outlines that the works approved under Development Consent No. DA24/0421, are to be sequenced prior to the commencement of the subject / proposed works. Accordingly, it is expected that associated Conditions would be incorporated into any determination (if favourable) issued by the Department.
- j) The Department should consider whether the existing adjacent road infrastructure (particularly along the Willmington Road site frontage, and to the intersection with The Northern Road and Elizabeth Drive), is suitable or will be made suitable for the overall resulting development.
- k) Given that the site is located within a Third Priority Area, the 'Out of Sequence' provisions relating to infrastructure must be considered. The proposed development should not impact upon the orderly and efficient development of other land in the broader area. This includes consideration of appropriate road, water, and services utilities. The EIS must demonstrate staging and intentions for delivery of such.

2. City Planning Considerations

Penrith Aerotropolis Development Contributions Plan 2023 (Penrith Aerotropolis CP)

- a) The Penrith Aerotropolis Development Contributions Plan 2023 (Penrith Aerotropolis CP) applies to the land subject to this SSD Application at a rate of 5.6%.
- b) In accordance with section 3.2 and 3.3 of the Penrith Aerotropolis CP and section 208 of the Environmental Planning and Assessment Regulation (2021) a 'Cost Summary Report' (CSR) must be provided to Council upon lodgement of the SSDA to calculate development contributions to inform future conditions of consent prior to determination.

- c) The submitted EIS does not include a CSR prepared by a suitably qualified person that clearly identifies the estimated cost of development for the purposes of calculating s7.12 contributions. It is requested that a CSR be submitted prior to determination to inform calculation of development contributions and future conditions of consent.

Transport Infrastructure

- a) A sub-arterial road is identified within both the Penrith Aerotropolis CP and the Western Sydney Aerotropolis Precinct Plan (WSAPP) street hierarchy required for delivery on the land subject to this SSD.
- b) Based on review of the EIS, the applicant proposes to deliver the sub-arterial road infrastructure identified, in accordance with its location in the Penrith Aerotropolis CP and WSAPP, which is supported.
- c) Ahead of any intended lodgement of a Letter of Offer to enter into a VPA, it is requested that the Department ensure that any SSD consent appropriately secures the delivery of the sub-arterial road infrastructure identified in the Penrith Aerotropolis CP.

Intent to enter into a Voluntary Planning Agreement

- a) It is noted that section 7.22 of the EIS indicates the proponent's intention to enter into a Voluntary Planning Agreement (VPA) with Council in relation to the delivery of infrastructure associated with the Penrith Aerotropolis CP including the sub arterial road.
- b) Council is open to further consultation and negotiations with the applicant regarding the potential to enter into a VPA for the subject site. However, it is imperative that the following matters are clearly addressed in any forthcoming Letter of Offer (LoO) prior to Council considering entry into any formal negotiations.

c) Any LoO is to be prepared in accordance with Penrith Developer Infrastructure Agreements Policy and is to include, at a minimum, the following:

i. Scope of offer and contribution outcomes

A clear articulation of:

- What infrastructure is proposed to be delivered,
- Whether any credits are being sought to offset development contribution obligations; and
- Whether a monetary contribution is proposed to fully satisfy development contribution obligations for the site.

ii. Costings

- A Cost Summary report in accordance with section 3.2 and 3.3 of the Penrith Aerotropolis CP must be provided,
- Where infrastructure or land is proposed to be delivered in lieu of monetary contributions, the LoO is to clearly identify cost assumptions and rates against consistency with benchmark rates identified in the Penrith Aerotropolis Contributions Plan Background Report, such as Land acquisition rates.

iii. Timing, staging and delivery triggers

Details of the proposed timing and thresholds for delivery of all infrastructure items, consistent with PDIAP, including:

- Clear staging triggers tied to development milestones or certificates,
- An ultimate sunset date for delivery of all obligations.

iv. Security and risk management

- Details of the proposed security mechanisms to be provided in the event of default or non-delivery,
- Identification of risks to Council associated with delivery, delay, maintenance or non-completion of works and land dedication, and clear allocation of responsibility for those risks between the parties.

v. Interaction with statutory contribution mechanisms

- Clarification as to whether the proposed VPA seeks to partly or wholly exclude the application of s7.12 or Division 7.1, Subdivision 4 of the Environmental Planning and Assessment Act 1979.

3. Development Engineering Considerations

- a) It is considered critical by Council that the consent authority includes (if the application is supported) a condition of consent which ensures that the permanent road closure as denoted on the subdivision plan as lot 7 and lot 8 is formalised with all the relevant stakeholders. Consideration should be given to the timing of the road closure process with respect to the delivery of the development. Council's preference is that the road closure process is to commence prior to the issue of a subdivision works certificate.
- b) The proposal includes temporary on-lot OSD basins which will be converted to their ultimate form upon development of the future lots. The performance requirements as set out by the water management plan prepared by Orion for the ultimate on-lot OSD systems are required to be adhered to as part of future developments of the lots. As such, it is suggested that a covenant on the title is provided for the proposed lots referring to the stormwater management plan.
- c) Further to the above point, all on-lot OSD systems will be the responsibility of the developer / property owners to maintain (they cannot be dedicated to Council). It is requested that a condition of consent is provided, requiring the creation of positive covenants and restrictions of use for the lots with OSD systems, benefiting Council. The wordings of the positive covenants and restrictions of use must be consistent with Council's standard wordings as per Annexure F of Council's *Stormwater Drainage Specifications for Building Developments*.
- d) It is noted that the design of the sub-arterial road is consistent with the Aerotropolis DCP, providing a reverse crossfall of the carriageway towards to the centre median island with elsholz kerb and stormwater

inlets. However, Council does not support the use of elsholz kerbs and prefers having the road designed with a standard crossfall with standard kerb. Particularly as standard cross fall is required at the roundabout and possibly at the intersection with Willmington Road, resulting in multiple change in the road cross fall over a short length of road.

- e) The proposed temporary cul-de-sacs at the end of Roads 04 and 07 do not include footpath and kerb and gutter. Council typically requires kerb and gutter to be provided at temporary cul-de-sacs with footpaths provided in the verge along the length of proposed lot frontages as there is uncertainty as to when the future extension of the roads will occur.
- f) Council requires a road safety audit to be provided for the concept design of future public roads.
- g) Proposed Road 04 includes a pedestrian road crossing, however, there appears to be no explanation for the need of this crossing. Further clarification is required on the proposed pedestrian crossing as Council typically would not support crossings without a suitable justification.
- h) Proposed Road 07 includes a median at the intersection with Road 01. It appears this will reduce the travel lane widths.
- i) The civil drawings include two indented bus stops along Road 01 with the waiting areas located within the cycle path. As such, further detail is required as to how the waiting areas can be designed to remain clear of the cycle path with consideration to providing bus shelters at each of the bus stops.

4. Traffic Engineer Considerations

The proposal for permanent road closure of the existing turning bay fronting the property (and depicted as Lot 7 and Lot 8 on the concept plans) within the road reserve of Willmington Road is noted, as follows:

- a) It is considered critical by Council that the consent authority (DPHI) would need to include a condition of consent (if the application is supported) which ensures that the permanent closure is formalised and the closure process brought to completion involving all the relevant parties.
- b) The primary access point to the sub-division is proposed to be via a new interim intersection which is proposed to operate as a 'priority control' intersection prior to an upgrade to traffic lights at a later point in time, and will include the following features:
 - i. A 150m long right turn bay on Willmington Road for vehicles accessing the site from the north and turning into the new sub-arterial road.
 - ii. A shared through and left lane on the southern approach of the intersection.
- c) Any assessment by DPHI must ensure that the intersection (outlined above) will operate satisfactorily with spare levels of capacity to accommodate future development in the area. Particularly as to whether the interim layout as proposed will be suitable to accommodate traffic flows during the busiest hours of the day.
- d) The Transport Impact Assessment states that the site is generally in accordance with the road hierarchy identified in the WSAPP. Any assessment of the proposal must determine to what extent there may be departures from the Precinct Plan and whether they are acceptable in terms of any potential adverse impacts. This relates to:
 - i. Proposed non-inclusion of two local roads from the WSAPP within the proposed Lot 4, and
 - ii. The relocation of Park Edge Road (Road #04) further east than depicted in the WSAPP.
- e) The TIA makes it clear, on page 25, that the needed future upgrade to traffic signals would be undertaken by others at a future date. Council

has concerns about this as it raises uncertainty about the deliverability of the upgrade to traffic signals. The assessing authority must ensure that this proposal is adequate for providing safe and efficient access now and into the future, without risk that delivery of traffic signals may be unacceptably delayed or possibly not undertaken at all.

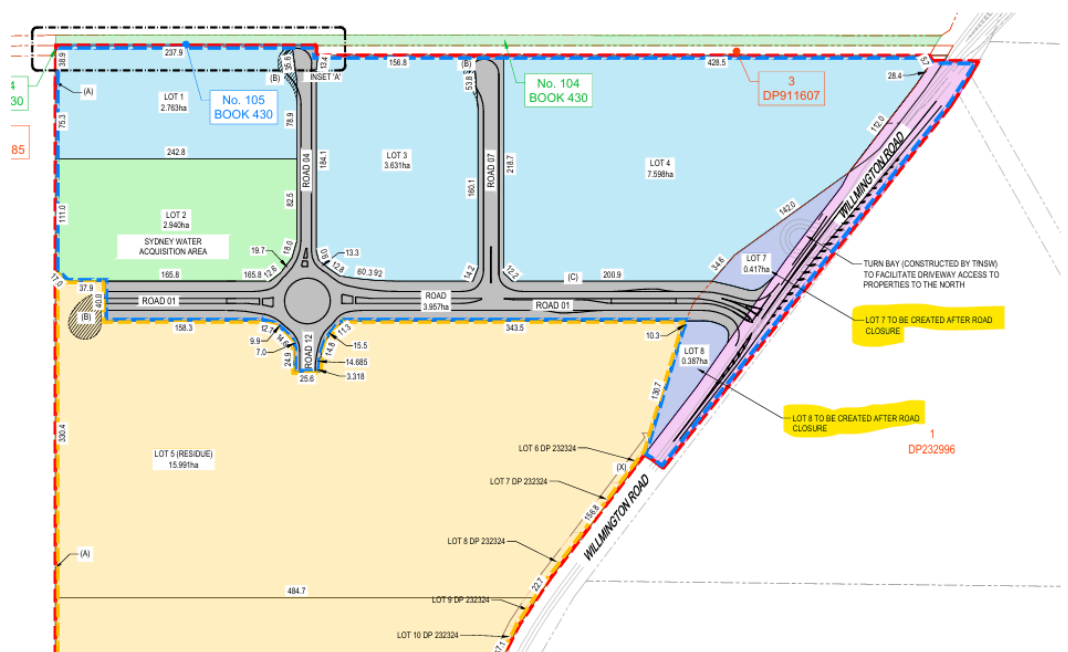
- f) The concerns outlined above are exacerbated by the quantification within the TIA that approximately 50% of the traffic generated by the development will be heavy vehicles (page 29).
- g) A background traffic growth rate on Willmington Road of 2% per annum over a 10-year period has been applied in the TIA. Council considers this to be low given the amount of development occurring in the precinct. Should a higher (in Council's view) more reasonable background traffic growth rate be applied, it is likely that full intersection upgrade including traffic signals would be triggered sooner.
- h) Whilst the TIA mentions signal warrants for future traffic signals installation, it is not clear as to whether a warrant assessment for traffic signals was undertaken at this stage in arriving at the conclusion (in the TIA) that traffic signals do not need to be delivered for this specific development proposal.
- i) The Northern Road, Willmington Road (for the portion fronting the site), and Park Road are all State roads under the control of TfNSW and, whilst it is noted that consultation has been undertaken with TfNSW (Appendix B of the TIA), the feedback given by TfNSW to date appears to be limited to advice as to what must be addressed. However, TfNSW does not yet appear to have given in principle support to the proposed intersection arrangement from Willmington Road. It is necessary that:
 - i. Access arrangements to/from state roads are finalised with TfNSW, as Willmington Road and Park Road are State Roads.

- ii. TfNSW advice is sought regarding the future need of the small lots, created for road realignment purposes, adjoining Willmington Road (DP 232324) and Park Road (DP 227200). Also, regarding the land immediately adjacent to the U-turn Bay on Willmington Road.
 - iii. TfNSW advice is sought on the signalling the proposed intersection with of Willmington Road and undertaking of TCS warrant assessment (for TfNSW consideration), following submission of the EIS and TIA to TfNSW.
 - iv. TfNSW advice is sought with regard to the privately owned road reserve along the northern boundary, as to whether it forms part of the road alignment nominated under the WSAPP, as well as demonstrated TfNSW acceptance of the proposal not to construct the required local roads (in the northeast of the site) depicted in the Precinct Plan.
- j) Clarity relating to proposal for alteration to the limits of the Road Reserve, including approvals granted, specifically in relation to the existing U-Turn Bay constructed by Transport for NSW on Willmington Road, which does not appear to have been provided in detail.
- k) Heavy vehicle swept paths provided, for 36m A-Double vehicle entering and exiting the site access road at Willmington Road, appear to cross painted medians and edge lines (Civil Engineering Plans, by Orion, plan SHT902, Rev. A dated 8 Aug 2025).
- l) Heavy vehicle swept paths provided for other (internal to the site) intersections are not of sufficient detail on the plans provided, and it is therefore unclear whether these are adequate.
- m) It is noted that applications for development in this precinct (under the WSAPP) must provide to the assessing body (DPHI), as part of the development application, confirmation that TfNSW is satisfied that the proposal:

- i. Provides road infrastructure to support the development, which is consistent with the precinct plan, and
- ii. Can connect to and integrate with existing and planned road infrastructure.

5. Property Management Team

- a) The applicant will need to progress the road closure subdivision and purchase from Council prior to any construction or works commencing. These parcels are identified as Lots 7 and 8 on the below plan.



- b) For additional background on the road closure process, the subdivision of the road will need to occur before Council can formally close the road via Government Gazette and road closure registration. On successful completion of the formal road closure process, two Torren title lots will be created (proposed Lots 7 and 8). The applicant can then liaise with Council regarding the two lots.
- c) Whilst the road closure process is a separate process undertaken under the Roads Act, by Council as the Roads Authority, Subdivision is required under the EP&A Act to facilitate the road closure process.

6. Environmental Health Considerations

Because of the state significant development classification of this application, the Environment Team notes that the Department is the assessment and consent authority for this proposal. As part of their assessment of the application, the Department should satisfy themselves that the following aspects are adequately addressed:

Land Contamination

- a) Chapter 4 of SEPP (Resilience and Hazards) requires that the consent authority be satisfied in relation to the site's suitability for the proposed use. In turn, DPHI will need to ensure that the site is suitable, or can be made suitable, prior to its use. It is noted that contamination reporting has not been submitted with this application for the subject site. Contamination reporting has been submitted addressing land immediately adjacent to the eastern boundary.
- b) Noting that a Remediation Action Plan has been submitted, and that asbestos removal is proposed, all remediation works should be carried out prior to other works commencing on site, ensuring identified contamination is managed so as not to impact other areas of the site.
- c) It is requested that copies of all contamination-related documentation (such as any Preliminary Site Investigations, Detailed Site Investigations, Remediation Action Plans, Validation Reports and Long-Term Environmental Management Plans, along with any documents prepared by a NSW EPA Accredited Site Auditor endorsing these documents) be provided to Council. These will be recorded on the property file and will be placed as property notations on the Section 10.7(5) planning certificates prepared.
- d) Council will not support any remediation that requires material being retained on site in or under areas intended to be dedicated to Council as public road or open space.

Wastewater

- a) The site is not yet serviced by Sydney Water's sewerage network. Though the development will eventually be able to connect to this infrastructure, the delivery of this service may not align with the timing of the current proposal. DPHI should ensure that where connection to the sewerage network is not able to occur prior to the occupation of the development, that an Interim Operation Procedure be approved to manage wastewater generated on the site. This may require Section 68 approval under the *Local Government Act 1993*. Alternatively, where an alternate solution is proposed, it may trigger the need for *Water Industry Competitions Act 2006* approval and licencing, as well as an approval under the *Local Government Act 1993*.

Environmental Management

- a) It needs to be ensured that adverse impacts on surrounding receivers and the environment are avoided and mitigated where necessary, in accordance with any relevant planning instrument and the relevant NSW EPA guidelines.

General Comments

- b) It is noted that DPHI will undertake a comprehensive review of the EIS, including appended technical reports, assessing environmental health impacts. Upon DPHI being satisfied with the application, Council anticipates that any mitigation and monitoring measures contained in the EIS, as put forward in the technical documents (and as refined or modified to satisfy DPHI during the assessment process), will be incorporated into any approval issued by DPHI, ensuring potential environmental impacts can be effectively managed and monitored.
- c) Council requests that conditions of consent do not require further assessment by Council of any item, except where there is a legislative

requirement (such as the need for a s68 application under the *Local Government Act 1993*), or where specifically requested by Council.

7. Waterways Considerations

- a) As part of the assessment of the application, DPHI will need to be satisfied that all Waterway health requirements are assessed in accordance with applicable legislative requirements and relevant guidelines. Several technical reports have been prepared in response to the waterway health requirements associated with the development.
- b) Sydney Water are the drainage authority for the precinct, and they have regional stormwater infrastructure identified on part of the land to be developed. Based on a review of the information it is proposed that several basins (wetlands, bioretention systems and storage ponds) will be delivered to manage waterway health for the development. This will need to be considered and consultation with Sydney Water will be required.
- c) It is recommended that the Department undertake a review of the Stormwater Strategy and ensure that the waterway health objectives can be achieved for both the construction and operational phases of the development. It is suggested that the plans be prepared in accordance with the Technical guidance for achieving Wianamatta–South Creek stormwater management targets and as per Sydney Water Stormwater Scheme Plan.
- d) Several water management basins and some naturalised trunk drainage is proposed to be provided to meet the waterway health requirements. The report and supporting information indicate that they have consulted with Sydney Water as the regional drainage manager. Confirmation that Sydney Water are supportive of the approach and designs of stormwater management infrastructure will be required.
- e) It is recommended that all waterways must be retained and embellished as per DCP and DCCEE requirements, and the drainage system must align with Sydney Water's scheme plan.

- f) If the application is supported, conditions should be applied to ensure that the on lot GPT's and associated stormwater treatment infrastructure will be the responsibility of the developer / property owners to maintain (they cannot be dedicated to Council). It is suggested that positive covenant/s and restriction/s of use are applied and benefit the drainage manager.
- g) It is noted that passively irrigated street trees will need to be included in the design of roads and the design will need to be approved by Council (in the case that road will be dedicated). It is noted that these appear to have been based on the Penrith City Council design (as outlined in the Civil Design Report), however, it is recommended that conditions be included requiring Council's approval for the passively irrigated street trees.

Should you wish to discuss this matter further, please contact Robert Walker, Senior Development Assessment Planner, on (02)4732 7409.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'SF' or similar initials, written in a stylized, cursive manner.

Sandra Fagan
Principal Planner