

Our reference: P-1201393-L2H1
Contact: Sandra Fagan
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20 July 2026

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

Attention: Lindsey Blecher

Email: Lindsey.Blecher@planning.nsw.gov.au

Dear Lindsey,

**Council Advice on Environmental Impact Statement for SSD-99079487 –
SEED Stage 1B at 1669-1723 and 1669A Elizabeth Drive, Badgerys Creek**

Thank you for providing Penrith City Council the opportunity to comment on the subject Environmental Impact Statement (EIS) relating to Stage 1B of the proposed Mirvac SEED industrial estate.

Council has reviewed the information referred for comment on 08 July 2026 and provides the following advice for the Department's consideration:

1. Planning Considerations

- a) The SEED Stage 1 Concept and first warehouse construction (SSD-19618251) is identified as Stage 1A and was approved on 04 February 2026. The approved Concept provides for seven warehouses, a cafe, and subdivision works. SEED Stage 1A includes site preparation works, bulk earthworks, road construction, and construction and operation of two buildings (Warehouses 2 and 6).
- b) The current application seeks approval for construction and operation of the remaining warehouses envisaged under the Stage 1 Concept. This is referred to as SEED Stage 1B (SSD-99079487). The proposed development includes construction and operation of

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Warehouses 1, 4, 5, 7, and 8, and the cafe, as well as the construction of stormwater basin SC09.

- c) In addition, there is a concurrent Modification Application to SSD-19618251 (MOD 1) which seeks amendments to the approved Concept to facilitate the proposed development of Stage 1B. Given this, Council's comments in this correspondence are relevant to both applications.
- d) It is also noted that an application for Stage 2 of the SEED development is currently being considered by DPHI (SSD- 104185710), and that Development Consent DA24/0775 has been granted by Council for the extension of the northern leg of Martin Road into the site.
- e) Council reiterates that the proposal should meaningfully include the adjoining ENZ zoned land. This would help address how the proposal meets the vision for the Wianamatta-South Creek Precinct having regard to the planning objectives and controls for Recognise Country, Landscaped Led Design, Blue-Green Infrastructure, Riparian Corridors, and Design Excellence (see further comments below).
- f) Proposed changes to approved retaining walls and proposed new retaining walls should be tiered if heights exceed those permitted by the DCP (no more than 2m high without a tier). It is preferred that retaining walls are not located within landscaped setbacks or present to street frontages. Any footings of retaining walls should not encroach below future public roads.
- g) Any retaining walls proposed at lot boundaries (such as the proposed wall at the boundary of Lots 4 and 5) should be designed to preserve a minimum 2m wide landscaped setback. Although this may not strictly be a requirement of the DCP, given the height of the proposed wall, the 2.99m wide landscaped setback on Lot 5 is an effective way to visually screen the wall. Conditions should be imposed to ensure the side landscaped setback is retained in perpetuity, noting that in the case of the lot interface between Lots 4 and 5, the landscaped setback is wholly contained within Lot 5. In addition, the proposed lot boundary retaining wall should not

project into the front and rear landscaped setbacks, to ensure a suitable visual presentation and interface with the adjoining public domain.

- h) Notwithstanding previous comments, it still appears that Warehouse 8 turns its back to the adjoining ENZ zoned land. The eastern facade of Warehouse 8, although incorporating a splay, is a long continuous facade in a mostly single plane.
- i) Regarding proposed signage, Warehouse 4 will have seven (S4) tenant identification signs, each measuring 2.5m by 11m. This would seem excessive along both the north and south elevations where three building identification signs are proposed on each of those facades. This equates to an advertising area of 82.5 square metres. The applicant should demonstrate whether this complies with the DCP control permitting a maximum advertising area of up to 0.5 square metres for every metre of lineal street frontage.
- j) The proposed rooftop signage will be a matter for the Department to carefully consider, in relation to precedent and visual clutter. Given the future visibility of warehouse roofs within the Aerotropolis Precinct, an opportunity exists to incorporate public art and interesting rooftop embellishment, rather than increased advertising or building identification signage. Design excellence should be extended to roofscapes, particularly in the Aerotropolis Precinct.

2. City Planning Considerations

Penrith Aerotropolis Development Contributions Plan 2023 (Penrith Aerotropolis CP)

Stage 1B

- a) The Penrith Aerotropolis Development Contributions Plan 2023 (Penrith Aerotropolis CP) applies to the subject site and would require the payment of development contributions at the applicable rate of 5.6%.

- b) Council notes that no infrastructure identified within the Penrith Aerotropolis CP is proposed to be delivered on the Stage 1B site as part of this SSD application.
- c) In accordance with Sections 3.2 and 3.3 of the Penrith Aerotropolis CP, Section 208 of the Environmental Planning and Assessment Regulation 2021, and Council's previous comments provided during the SEARs process (November 2025), a Cost Summary Report is required to accompany the SSD application to enable the calculation of applicable development contributions and inform any recommended conditions of consent.
- d) Notwithstanding Council's previous request, a Cost Summary Report does not appear to have been submitted as part of the EIS documentation. The report remains outstanding and should be provided to Council as a matter of priority to facilitate the assessment of applicable development contributions.

Stage 1A (MOD-1)

- a) The concurrent modification report (Stage 1A) proposes several changes to the approved concept, including redistribution of GFA, an increase in cafe floor space, amendments to retaining walls and pad levels, and other civil design refinements.
- b) As development contributions under the Penrith Aerotropolis CP are calculated based on the cost of development, Council requests confirmation as to whether the estimated Cost of development associated with the approved Stage 1 development has changed as a result of the proposed modifications. An updated Cost Summary Report should be provided to enable Council to confirm the applicable development contributions and review whether any amendment to the previously calculated contribution is required.
- c) Council reserves its position regarding the final development contribution amount pending receipt and review of the relevant Cost Summary Report.

Interface with ENZ – Environment and Recreation zoned land

- a) It is acknowledged that the EIS identifies the ENZ-zoned land as forming part of the Wianamatta-South Creek corridor and describes its intended role in biodiversity conservation, flood management, regional stormwater infrastructure delivery and landscape outcomes. The EIS also indicates that the land is subject to an approved Vegetation Management Plan and Riparian Strategy and that future access arrangements may be dependent on ownership and operational requirements associated with Sydney Water and other agencies.
- b) Notwithstanding the above, the long-term vision, function and delivery of the broader ENZ-zoned land remains unclear, particularly in relation to its contribution to the future open space network and its integration with surrounding development envisaged by the Western Sydney Aerotropolis planning framework.
- c) While it is acknowledged that this SSD application does not seek approval for the broader ENZ-zoned land, additional clarity is requested regarding:
 - o the anticipated long-term function and management of the ENZ zoned land beyond the delivery of regional stormwater infrastructure,
 - o the intended relationship between the ENZ zoned land and future public open space, recreation and ecological corridor outcomes identified within the Western Sydney Aerotropolis Precinct Plan (WSAPP),
 - o opportunities for future physical and visual connectivity between the developed estate and the ENZ land, and
 - o how the future planning and management of the ENZ zoned land is intended to support the broader open space, environmental and recreation objectives of the WSAPP and associated strategic planning framework.
- d) This information would assist Council in understanding how the proposed development integrates with the broader precinct structure and how the ENZ zoned land is intended to contribute to

the long-term environmental, recreational and connectivity outcomes envisaged for the Badgerys Creek Precinct.

Proposed Voluntary Planning Agreement to facilitate land dedication requirements for open space infrastructure – SEED Stage 2

- a) The City Planning team is currently undertaking preliminary negotiations with Mirvac regarding a potential Voluntary Planning Agreement (VPA) for Stage 2 of the development site (Lot 741 DP 810111), following the submission of a Letter of Offer in May 2026, which is currently under assessment.
- b) It is noted that Figure 5 – Proposed SEED Stage 2 Concept Masterplan within the EIS identifies two proposed public open space (POS) areas. Council notes that the location of the southern POS area appears to differ from that shown in the current Letter of Offer submitted as part of the VPA process.
- c) To ensure consistency between the EIS documentation and the ongoing VPA negotiations, it is requested that Mirvac review and, where necessary, amend the relevant plans in any future EIS updates to accurately reflect the proposed open space layout and avoid confusion regarding the intended location of public open space.
- d) The applicant should clarify the intent behind the proposed VPA in response to Mirvac's request to relocate and reconfigure the areas identified as 'Indicative Open Space' and 'Active Open Space' under the Penrith Aerotropolis CP and WSAPP.
- e) Consistent with the above, City Planning is currently reviewing and discussing the draft Public Open Space Strategy prepared by Mirvac/Urbis to determine whether the proposed relocation, reconfiguration and fragmentation of public open space is consistent with the objectives and requirements of the Penrith Aerotropolis CP, WSAPP, State Environmental Planning Policy (Precincts – Western Parkland City) 2021, and Council's Sport and Recreation Strategy.

- f) Given the ongoing assessment of the draft Public Open Space Strategy as submitted with the draft Letter of Offer, Council's position regarding the suitability of the proposed open space configuration has not yet been finalised. Any future consideration of amendments to the location, configuration or delivery of public open space will be subject to the outcome of these assessments.
- g) You may contact Natalie White directly at natalie.white@penrith.city or 4732 7833 to discuss the matters raised in this section of the letter.

3. Traffic Engineering Considerations

- a) The proposed Stage 1B development will be accessed via a signalised intersection at the intersection of Elizabeth Drive, Martin Road, and the proposed access road/s. The Department should therefore consider appropriate conditions for staging of works and occupation of warehouses relevant to the delivery of road infrastructure.
- b) The interim signalised site access is anticipated to be constructed prior to the commencement of operation for the Stage 1B development.
- c) The Stage 1 SSD Approval already provides considerations to the detailed traffic impact assessment of the full Stage 1 Masterplan development.
- d) Swept path analysis for the largest design vehicle for site access (30m PBS Level 2 Type B) has been undertaken for lots with site areas exceeding 20,000sqm in accordance with the Western Sydney Aerotropolis Phase 2 DCP design requirement. The ultimate Elizabeth Drive Upgrade is being designed by Transport for NSW.
- e) Provision of parking spaces should comply with the Western Sydney Aerotropolis DCP.
- f) Trip generation for Stage 1B should be assessed, based on the concept masterplan trip generation rates, and not by using the

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rates proposed in Transport for NSW, Guide to Transport Impact Assessment 2024.

4. Environmental Management Considerations

DPHI will need to be satisfied that all potential environmental health impacts are comprehensively assessed in accordance with applicable legislative requirements and relevant guidelines, codes and standards, as well as ensuring that industry best practices are implemented. The following comments are provided to assist DPHI with their assessment.

Contamination

- a) Contamination has been addressed in the previous assessment for Stage 1 and the site has been found to be suitable. An unexpected finds protocol should be prepared. This must state that any remediation from unexpected finds is not to involve cap-and-contain below land intended to be dedicated to Council (such as future public open space or roads).

Air Quality and Dust

- a) Dust is expected to be generated as part of construction activities. A Construction Environmental Management Plan should be prepared and should include dust management.
- b) No operational air quality management issues are expected. The recommendations of the Air Quality Impact Assessment prepared by SLR dated 05 March 2026, ref: 610.032539.00004 rev: V2.0, should be implemented.

Noise

- a) The Noise and Vibration Impact Assessment prepared by Renzo Tonin and Associates dated 04 March 2026 has found that the development will not cause any noise impacts. The author of the report has recommended several mitigation measures. These should be conditioned and implemented. In addition, conditions should be provided to require a compliance report to the consent authority 12 months after the first occupation certificate is issued.

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 not be able to occur prior to the occupation of the warehouses, that an Interim Operation Procedure be approved to manage wastewater generated by the site. This may require Section 68 approval under the Local Government Act. This has not been addressed in the proposal.

5. Waterways Considerations

- a) As Sydney Water are the drainage authority for the precinct and have trunk drainage identified on part of the land to be developed, consultation with Sydney Water is required. The stormwater will ultimately be treated in the regional stormwater management scheme once available for connection.
- b) Interim arrangements such as an evaporation basin will be required to manage stormwater and comply with the DCP until the regional stormwater scheme can be relied upon. It is also noted that there are permeable area requirements and GPTs that are required to be maintained on lot by the developer as part of the scheme.
- 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) Details of how the proposed stormwater management systems will connect to Sydney Water 's regional stormwater system once available (including how any interim measures will be decommissioned) is required. (Sydney Water regional basin SC09).

- e) Three Development scenarios have been proposed as part of the civil report. The applicant should provide confirmation as to which scenario/s will be implemented.
- f) An Erosion and Sediment Control Plan must be prepared in support of the application. This will need to be prepared in accordance with the requirements outlined in Section 2.4 of the Mamre Road Precinct DCP and associated technical guidelines. It is suggested that Type A or B Basins (with automatic flocculation) be adopted as per the technical guidance for the precinct.
- g) In relation to the provision of passively irrigated street trees for the roads, it will be important to include a condition in any consent that requires Council to approve the final design.
- h) In the case the development proposal is approved, conditions also need to be applied to ensure that the on lot GPT 's and associated infrastructure (such as permeable paving, trunk drainage and OSD) will be the responsibility of the developer / property owners to maintain (they cannot be dedicated to Council). It is recommended that a Positive Covenant and Restriction of Use should be required and it should nominate Sydney Water as the benefiting agency (as the stormwater authority for the precinct).

Because of the state significant development classification of the development, Council is not empowered as either the assessment authority or the consent authority. It must then also be recognised that Council is not responsible for the assessment or consideration of any post determination matters, unless otherwise expressly required by legislation, such as a Section 138 Roads Act Application or a Section 68 application under the Local Government Act 1993.

If the proposal is given a favourable determination by the consent authority, Council requests that no condition of consent is imposed that requires an Applicant to consult with Council where the need for an assessment of suitability, or a determination of condition compliance, is specifically the responsibility of the consent authority.

The only exception to this request is where consultation relates specifically to the design and location of infrastructure or works that are intended to be dedicated to or transferred into Council's ownership. This also includes the use of public roads for construction vehicles and the need for a CTMP.

Should you wish to discuss this matter further, please contact me directly on (02) 4732 7992.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'SF' with a stylized flourish.

Sandra Fagan
Principal Planner

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