

Our reference: P-900143-B4C9  
Contact: Nick McMaster  
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19 May 2025

ATTN: David Schwebel

Email: [David.schwebel@planning.nsw.gov.au](mailto:David.schwebel@planning.nsw.gov.au)

Dear David,

**Council Response to Environmental Impact Statement – SSD-70817958 – DHL Logistics Facility Badgerys Creek North at 1953–2109 Elizabeth Drive, Badgerys Creek, NSW, 2555**

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

Council staff has reviewed the information referred for comment on 16 April 2025 and provides the following advice for the Department's consideration.

## **1. Planning Considerations**

- a) The subject application is premature as it is reliant on the parent subdivision application (SSD-70316465) to be approved for the delivery of significant infrastructure. Also, the Sydney Water Scheme Plan needs to be finalised as the site will drain into the future Sydney Water infrastructure and rely on these measures to comply with the water quality requirements.
- b) Council provided an extensive submission for the Burrah Park Warehousing and Logistics Estate in a letter issued to the Department on 19 December 2024 under SSD-70316465. The comments raised in that submission should be considered holistically as they may also be relevant to this subject application.
- c) The development proposes significant retaining walls along the northern boundary. Consideration shall be given to the suitability of

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these retaining walls and stepping the walls, noting the extensive frontage to the lot to the north.

- d) The car parking areas do not provide tree planting at intervals of every five car parking spaces, as required by clause 2.4.4 – PO6 of the Aerotropolis DCP. The design of the mezzanine car park does not permit tree planting as required by the DCP. The proposed landscaped cut-outs are insufficient to meet the Performance Outcomes of the DCP, and this design does not address urban heat.
- e) In addition, clause 2.7 of the DCP (PO8) refers to parking at grade “*or if provided above the ground floor level within a building*”. The proposed upper-level parking is not integrated into the building. This, coupled with the lack of tree planting, is a poor urban design and visual outcome.

## 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 site subject to this SSD Application at a rate of 5.6%.
- b) Page 98 of the EIS states that “Contributions plans have not been finalised for the site but are expected to be in place by the time the application is determined.” This is incorrect. The Penrith Aerotropolis CP came into effect on 14 August 2024 and applies to the site subject to this SSD Application

### Relationship with SSD-70316465 (Burrah Park)

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- a) It is noted that the approval of this SSD Application is reliant on the approval of SSD Application 70316465 (Burrah Park) and there is a concern that if the design for SSD 70316465 changes, amendments to this SSD may be required and could warrant changes, particularly relating to the proposed road network and changes to infrastructure included within the Penrith Aerotropolis CP. This SSD application is

premature until the above 'parent' SSD application is determined. Subsequently, it is requested that a further opportunity to provide feedback is afforded to Council if amendments to the above SSD for Burrah Park are proposed/approved upon determination.

- b) The Infrastructure Staging and Delivery Plan included in SSD-70316465 advised that the proponent was negotiating with Council regarding entering into a VPA for the site. It should be noted that these negotiations have not formally progressed and therefore the Penrith Aerotropolis Development Contributions Plan 2023 with a rate of 5.6% continues to apply.

Conditions of consent:

Upon determination of this SSD, if approved, it is requested that the two conditions below be included within the conditions of consent in line with the attached quote for development contributions under the Penrith Aerotropolis CP:

- a) Pursuant to section 7.12 of the Environmental Planning and Assessment Act 1979 and the Penrith Aerotropolis Development Contributions Plan 2023 (Contributions Plan), a monetary contribution of \$5,861,424.00 shall be paid to Penrith City Council. The amount paid is to be adjusted at the time of the actual payment in accordance with the provisions of the Contributions Plan. The Contribution is to be paid prior to the issue of a Subdivision Certificate or Construction Certificate, whichever occurs first. An application for deferred or periodic payment may be considered by the Council in accordance with the provisions of the Contributions Plan.
- b) Prior to the issue of an Occupation Certificate, a post completion review of construction costs, prepared by a Quantity Surveyor (who is a registered member of the Australian Institute of Quantity Surveyors) or a Chartered Professional Accountant, is to be provided to Council specifying the actual cost of works. Where the actual cost of works exceeds that for which the contributions were calculated pre-development, the shortfall is to be paid prior to the issue of the Occupation Certificate.

A copy of the Contributions Plan is available on Council's website.

Note: This development contribution may be satisfied by a voluntary planning agreement entered into between the Council and the Applicant.

### 3. Development Engineering Considerations

- a) This application has been reviewed in conjunction with the Burrah Park Estate application SSD-70316465 that sets the concept master plan and Stage 1 development delivering the earthworks, external and internal roads, infrastructure and regional stormwater management systems.
- b) The proposed development is reliant on the proposed wetlands and bio-retention basin system (Basin B) which is part of the parent subdivision to manage the stormwater as it does not propose on lot onsite stormwater detention systems.
- c) The submitted EIS and Transport and Accessibility Impact Assessment reports suggest that the subject development can be delivered independently of the Burrah Park SSD-70316465 by providing a temporary access easement over an existing dirt road off Elizabeth Drive. There is no further detail provided on this proposal, and it would require further assessment in particular TfNSW for the use of a temporary access on Elizabeth Drive.

### 4. Traffic Considerations

- a) Clarification is required regarding compliance of the westernmost proposed truck entry point, with respect to its proximity to the adjacent intersection. No clear dimensions are given for assessment of potential impacts on the intersection and risk of rear end collision in instances where trucks slow/stop to enter the driveway immediately after exiting the proposed roundabout at the intersection. Further detail is requested.
- b) The architectural plans are not of sufficient detail (dimensions not provided for assessment purposes) to assess whether compliance

with AS 2890.2 has been demonstrated regarding all proposed truck entry/exit driveways.

- c) The architectural plans are not of sufficient detail (dimensions not provided for assessment purposes) to assess whether compliance with AS 2890.1 has been demonstrated regarding car parking areas.
- d) The application does not state clearly that access and parking comply with AS 2890.1, AS 2890.2 and AS 2890.6, but rather states that the proposed site layout is expected to operate satisfactorily subject to detailed design. Due to a lack of detail, it is not clear where non-compliances may exist in this regard.
- e) Any internal driveway access gates/boom-gates/etc. must be positioned internally such that a full vehicle length (of the largest vehicle designated to use the corresponding entrance) can be accommodated wholly within the site and not queue on the public roadway. It is not clear from the application whether this has been achieved.
- f) The Transport and Accessibility Impact Assessment report notes that with the intersection between Elizabeth Road/ Luddenham Road will operate at LOS F with or without the Burrah Park development. The associated data has not been included in the report. The report recommends the signalisation of the intersection to alleviate the congestion along Luddenham Road with reference to the Elizabeth Drive Upgrade REF documentation which suggests this intersection will be upgraded to a signalised intersection. However, the timing of this upgrade is uncertain, and Council has concerns about the operation of the intersection.
- g) A CTMP (construction traffic management plan) will be required for assessment/concurrence by Council, including detailed TGSs (traffic guidance schemes).

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The below comments are for TfNSW to ensure consistency with the Western Sydney Aerotropolis Precinct Plan & Other Matters:

- a) Temporary connection to Elizabeth Drive is noted to be a decision for TfNSW.
- b) Applications for development in this precinct (under the 'Western Sydney Aerotropolis Precinct Plan') must provide, as part of the development application, confirmation that Transport for NSW (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 integrating with existing and planned road infrastructure.
- c) In undertaking its assessment, according to SEPP (Western Sydney Aerotropolis) 2020, Section 29, TfNSW should consider:
  - i. "The appropriateness of the development in relation to planned infrastructure on transport corridor land", as well as;
  - ii. "The timing of the carrying out of the proposed development and the timing for constructing infrastructure on transport corridor land", as well as;
  - iii. "The effect of the development on planned infrastructure".

## 5. Environmental Management Considerations

- a) It is noted that remediation of some contamination is required. A Validation Report must be submitted to both DPHI and Council on completion of works confirming that remediation has been successful and that the site is suitable for the proposed use. This information can then be added to the Planning Certificate.

## 6. Waterways Considerations

The site is in the proposed Burrah Park estate development (SSD-70316465) which once approved will provide earthworks, road access, lead-in services, stormwater drainage, regional WSUD systems and other infrastructure, for this application (SSD-70817958).

In addition to the regional stormwater management measures a gross pollutant trap (GPT) is proposed for each lot, within the lot and immediately upstream of the estate road drainage discharge point.

The parent subdivision application (SSD-70316465) must be determined prior to this application being assessed and determined. The Sydney Water Scheme Plan also needs to be finalized. This will be important as the site will drain into the infrastructure and rely on the measures to comply with the waterway health requirements.

With respect to the stormwater approach for the parent subdivision SSD-70316465, the BCS noted that the stormwater design details provided for the proposed regional water management infrastructure are inadequate for BCS to assess compliance with the Western Sydney Aerotropolis Development Control Plan (DCP) 2022 stormwater water quality and flow targets.

It is also noted that Sydney Water's Scheme Plan for the precinct is yet to be finalised. This is important as this development relies on the precinct stormwater drainage and associated stormwater treatment for the site to meet the waterway health requirements.

Based on the above comments, it is suggested that the application is premature and that alternative interim measures (prepared in accordance with the Technical guidance for achieving the Wianamatta South Creek stormwater management targets, would be required until the ultimate stormwater management measures are in place in the case the development is approved.

The following comments are provided for your consideration:

- a) Based on a review of the above documentation, the proposal could not be supported in its current form with respect to Waterway Health matters. The information provided in the Civil Report and supporting information has not demonstrated compliance with the DCP waterway health controls.
- b) With respect to the regional stormwater scheme, it is suggested that this should all be resolved prior to developing the lots associated with the subdivision. Alternatively interim stormwater treatments measures should be provided in accordance with the Technical guidance for achieving Wianamatta South Creek stormwater management targets.

- c) In the case the development proposal is approved, conditions need to be applied to ensure that the on lot GPT's and associated infrastructure will be the responsibility of the developer / property owners to maintain (i.e., they cannot be dedicated to Council). It is suggested that a positive covenant be applied to the satisfaction of the Drainage Manager.
- d) With respect to waterways, it is noted that a mapped waterways are located on the site. Any works will need to be undertaken in accordance with Water Management Act and the Department of Climate Change, Energy, the Environment and Water (DCCEEW) requirements.
- e) In relation to salinity, it is noted that permeable paving may be used in some areas. The use of these should only be undertaken with the support of a Salinity assessment to ensure no adverse impacts.
- f) High efficiency sediment basins are required to be provided meet the construction phase IWCM controls in the Aerotropolis DCP. Conditions will need to be included in the consent that requires high efficiency sediment basins to be used during the construction stages of the development, and that they are designed and audited by a CPESC as per the Technical guidance for achieving Wianamatta South Creek stormwater management targets.

Should you wish to discuss this matter further, please contact Nick McMaster on (02) 4732 8578.

Yours sincerely,



**Sandra Fagan**  
**Principal Planner**

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