

Our reference: P-906861-Q3G6
Contact: Sandra Fagan
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29 May 2025

ATTN: Deana Burn

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Dear Deana,

Council Response to Environmental Impact Statement – SSD-19618251 for Elizabeth Enterprise Precinct – Stage 1 at 1669-1723 and 1669A Elizabeth Drive, Badgerys Creek

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 30 April 2025 and provides the following advice for the Department's consideration.

1. Planning Considerations

- a) The proposal seeks to endorse a Concept representing Stage 1 of the Elizabeth Enterprise Precinct site (EEP). This concept for Stage 1 will include new roads and seven warehouse buildings, with the physical works sought being the site preparation / bulk earthworks for the entire Stage 1 concept and the construction of two warehouses.
- b) While development in the Aerotropolis Precinct is supported in principle, concern is raised in relation to whether the infrastructure is in place or will be in place to support the proposed development, particularly given that an approved Concept sets an expectation that the site can, and will be, developed in line with the approved concept. The primary infrastructure includes the regional stormwater scheme and roads (both State roads to be upgraded to a final design and new local estate roads).

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- c) It would be pertinent to consider if there are any implications for other sites in the initial precincts of the Aerotropolis, in relation to the potential need to stage the release of development commensurate with the availability of the supporting infrastructure.
- d) It is important that the proposed development is reconciled with the Sydney Water Aerotropolis Stormwater Scheme, and that Sydney Water as the regional stormwater authority endorse the proposed development. In a similar manner, TfNSW are the roads authority for Elizabeth Drive and will need to endorse the proposed development in terms of works to the classified road, including the final road design versus an interim road design.
- e) The Department should carefully consider how the EEP site will be staged to allow it to be 'un-linked' from the stormwater management requirements of the Aspect Industrial Estate (in the Mamre Road Precinct) at the relevant and appropriate stage/s.
- f) The Department is advised that Council is currently considering a Development Application DA24/0775, lodged by Mirvac to construct an (interim design) intersection at Elizabeth Drive, being the northern leg of Martin Road. Assessment of this application is nearing completion.
- g) The proposed position of warehouses 1 and 2 does not address that these lots front a public road, being the un-named road forming part of the western boundary of the site. This road is currently a formed public road, although it is acknowledged that the connection to Elizabeth Drive is likely to be removed once the new Martin Road intersection is completed.
- h) The internal estate roundabout should be constructed in full. The EIS shows the northern portion of the roundabout being partially in Stage 2. The full roundabout should be constructed as part of the Stage 1 detailed works.
- i) The Stage 1 Concept and proposed detailed works do not include the adjoining open space and riparian corridor. It is unclear how the

riparian corridor portion of the site is proposed to be embellished and managed. The EIS (page 25) refers to embellishment of this land being the subject of a later application, dependant on a further masterplan for the Wianamatta – South Creek corridor. The indicative EEP Stage 1 Phasing plan (Figure 23 of the EIS) shows the riparian corridor as being within Phase 5, which appears to be the last stage of the proposal, notwithstanding that on Figure 23 it is shown as positioned above the Stages 1A-1G building works.

- j) This proposed approach is potentially of concern as it seeks to delay embellishment of, and cut-off from the project site, an integral part of the subject site. The proposed Concept should masterplan for the whole site. The industrial development portion should be designed to address and enhance the adjoining open space. Currently, the proposed concept includes a vegetation border along the eastern edge of the Stage 1 portion of the site and a potential sewer pump station by Sydney Water. Developments fronting riparian corridors should have activated edges for passive surveillance and connectivity and should be designed and developed in conjunction with the industrial development of the site.
- k) A holistic concept for the site might also be the only means for the applicant to demonstrate the core principles of development in the Aerotropolis, being Connecting to Country and Landscape-Led Design, noting that the riparian corridor is likely to be the area where these principles are best displayed.
- l) If the Department supports the applicant's approach to developing Stage 1 initially, then the mechanisms to ensure future delivery of the open space embellishments should be clear and enforceable. This might include only permitting a certain quantum of floor space or number of warehouses prior to the requirement to obtain development consent and deliver open space embellishments. This is particularly relevant given that the development uplift in the site's potential is focussed on the areas of the site that can be developed for warehouse type uses and given that the SSD for the Concept includes subdivision of land.

- m) It also appears that the 'amenity node' building is proposed as part of Stage 1G, being the last building stage in the Stage 1 concept. The amenity node should be delivered at an earlier stage as it will provide amenity for future workers and provide some connection between the industrial development and the adjoining riparian corridor.
- n) The applicant is requested to liaise with Council staff regarding future street tree species for local roads intended to be dedicated to Council. The Department is requested to impose a condition for this to occur, but only in relation to street trees or landscaping on land to be dedicated to Council.
- o) It is expected that a Street Tree Masterplan for the entire estate (including specifically nominated species and a plant schedule) be developed and provided for Council's endorsement. Street tree spacings should be relevant to the canopy spread of each street tree species, so canopies are touching, to maximise shade and microclimate. Species choice is to be designed to meet bird strike and passive irrigation requirements. The rationale for the design, including bird strike constraints, is to be included in the landscape documentation. For internal estate roads, there should be no shrubs or groundcovers (only turf) and street trees.
- p) The applicant should liaise with Council staff regarding the species mix in the Elizabeth Drive setback. The setback should provide for a well-developed, multi-layered and biodiverse buffer consisting of two rows of large and medium canopy trees (appropriately spaced), large shrubs to 5m tall, and medium shrubs. Groundcovers are not supported. An effective dense screen to 5m is required.
- q) The Department should consider if the applicant's case for providing less than the 25% tree canopy cover required by the DCP, on grounds of airport safety and wildlife hazard, is justified. The Aerotropolis DCP and the required canopy cover are relatively new controls that would have considered airport safety in the broader planning for the area. In addition, the EIS refers to additional tree planting likely to occur in the adjoining riparian corridor, however, the SSD does not include this land.

- r) Any (and all) approved free-standing signs are to be located on private property and are not to be positioned on future public roads and/or verges. The proposed signage plan includes several free-standing signs intended for way finding, including sign S5 which is proposed to be positioned on the new roundabout to provide direction to the Cleanaway site. While way finding signage for the Cleanaway site is supported in principle, the signage is not to be positioned on the roundabout, or on any other future public carriageway (road/verge).
- s) Any structures to support retaining walls fronting future public roads are not permitted to encroach into the public roadway.
- t) The proposed roundabout adjoining Warehouse 8 should be delivered as a full roundabout. In both the concept drawing and the proposed subdivision plan, it appears as a half roundabout. Council would not accept a half roundabout as a future public road.
- u) The western end of proposed industrial road 04 requires further clarification as to why the road ends in the manner proposed, where it adjoins the unnamed lane. It is understood that this potentially relates to retention of vegetation, but this requires clarification.
- v) PO4 of clause 2.7 (Parking Design and Access) of the Aerotropolis DCP refers to locating vehicle access points on secondary frontages. Warehouse 2 appears to locate all four vehicle access points from the main local collector road. The applicant should consider relocating the light vehicle driveway to the industrial road 04.
- w) It appears that a chain wire fence is proposed along the eastern boundary of Stage 1 with the adjoining open space / riparian corridor. A chain wire fence should only be temporary and if it is not, the applicant should consider a better design such as a metal palisade fence.

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) There is no infrastructure under the Penrith Aerotropolis CP proposed to be delivered on the site subject to this SSD.
- c) It is requested that a 'Cost Summary Report' in line with section 3.2 and 3.3 of the Penrith Aerotropolis CP is provided to Council to calculate development contributions and inform conditions of consent prior to determination of the SSDA.

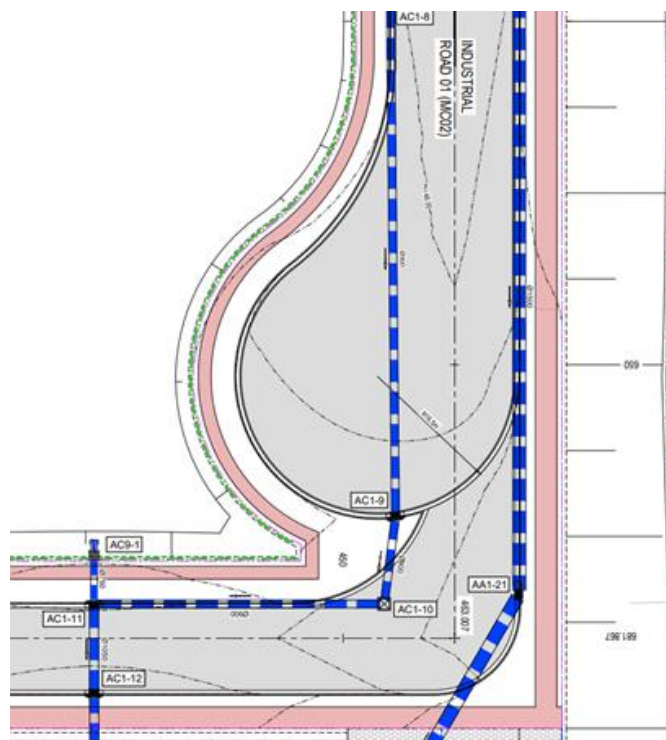
Proposed Voluntary Planning Agreement to facilitate land dedication requirements for open space infrastructure – Stage 2 of the Concept Plan

- a) City Planning are currently in early VPA negotiations with MIRVAC regarding the site subject to Stage 2 (Lot 741 DP 810111) of the Concept Plan for Elizabeth Enterprise Precinct (EEP). Although not subject to this SSDA, this site and proposed development is identified on the concept plan in Figure 1 of the Environmental Impact Statement (EIS) and forms part of the broader EEP development Precinct.
- b) The intent to enter into a VPA is due to MIRVAC seeking to relocate and reconfigure the 'Indicative Open Space' and 'Active Open Space' infrastructure, as currently included under the Penrith Aerotropolis CP and identified in the Western Sydney Aerotropolis Precinct Plan.
- c) In line with the above, City Planning are currently reviewing a recently submitted Public Open Space Strategy (prepared by MIRVAC/Urbanis) to determine if the proposed relocation and fragmentation of open space meets requirements under the Penrith Aerotropolis CP, Western Sydney Aerotropolis Precinct Plan, State Environmental Planning Policy (Precincts – Western Parkland City) 2021 and Penrith's Sport and Recreation Strategy.

- d) The Public Open Space Strategy proposes to fragment the Indicative and Active Open Space components into three smaller areas across the Stage 2 development site which upon initial review, does not satisfy Councils requirements.
- e) It should also be noted that the indicative open and active open space as identified on Lot 741 DP 810111 is the only open space infrastructure, required to service the entire Badgerys Creek (BC) Precinct and therefore future development sites within the BC precinct need to be considered wholistically and not just in isolation with the development proposed in Stage 2 of the EEP.

3. Development Engineering Considerations

- a) The detail showing “bubble” in industrial road 01 (MC02) and park edge road 01 (MC11) is unsatisfactory. Council does not support this proposed detail.



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- b) For warehouse 1, mixing the carpark interface with the truck manoeuvring area is not supported. Ingress and egress for workers parking areas is to be separated from truck manoeuvring areas.

- c) For warehouse 4, mixing the carpark interface with truck manoeuvring area is not supported. Ingress and egress for workers parking areas is to be separated from truck manoeuvring areas. Also, distances involved with staff parking bays from single ingress/egress point warehouse 8 not supported.
- d) For warehouse 8, mixing the carpark interface with truck manoeuvring area is not supported. Ingress and egress for workers parking areas to be separated from truck manoeuvring areas.
- e) Signage in road reserves is not supported.

4. Traffic Considerations

- a) The proposal provides for a signalised intersection with Elizabeth Drive / Martin Road, and the internal roads, which appear to be as per the Aerotropolis Precinct Plan (subject to TfNSW concurrence). This is inclusive of an east-west connection, which will provide access to the neighbouring Cleanaway site. A roundabout intersection is proposed to the north of "Road 01", where it intersects with the east-west road.
- 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 (and the like) 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) Traffic generation trip rates have been adopted from TfNSW (RMS Guide to Traffic Generating Development and updates), which is accepted. However, the Transport Assessment indicates that the LoS at Elizabeth Drive / Devonshire Road is anticipated to deteriorate to LoS F during the PM peak, noting that under the baseline conditions the intersection is already congested and operating at a high LOS E, and concluding that the change in performance is not expected to be significant. This intersection is not within Penrith Council LGA, and is ultimately a matter for TfNSW, however it is noted as significant and likely to require further investigation.
- g) A future CTMP (construction traffic management plan) will be required for assessment/concurrence by Council, including detailed TGSs (traffic guidance schemes).
- h) It is noted that a consultation meeting was held between the applicant and TfNSW on 9 July 2021 to discuss the proposed methodology taken for this assessment. Ason Group indicates it has endeavoured to address and consider all the items discussed with TfNSW within this assessed. It is stated that a further meeting with TfNSW was held on 11 November 2022. The Transport Assessment refers to ongoing discussion between TfNSW and the applicant regarding the future intersection. However, there is no documented indication that TfNSW has provided concurrence with the proposal.
- i) 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 integrates with existing and planned road infrastructure.

5. Environmental Management Considerations

As part of the 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. Noting that a Remediation Action Plan has been submitted, and that the proposed works are considered Category 2 remediation works under the SEPP, Council requests that the applicant be reminded of their obligations under Section 4.13 of the SEPP.
- b) Where it is proposed that contaminated materials be retained on site (as would be the case with a 'cap and contain' strategy), Council does not support locating these materials beneath future public land (Council-owned land). In addition, mechanisms should be put in place to ensure that where a Long-Term Environmental Management Plan (LTEMP) is required for the ongoing management of any materials left in situ, that restrictions will be placed on the land title referencing these materials and the requirements for ongoing management (such as the implementation of the LTEMP).

Wastewater Management

- 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 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.

Acoustic Impacts

- a) It needs to be ensured that adverse noise impacts on surrounding receivers are avoided, and mitigated where necessary, in accordance with relevant guidelines such as the NSW Noise Policy for Industry, the NSW Road Noise Policy and the Interim Construction Noise Guidelines.

Air Quality

- a) The SEARs requested that potential impacts during construction and operation of the proposed development be addressed. Though an Air Quality Impact Assessment (AQIA) has been prepared, it has only assessed air quality impacts caused by construction works, with no assessment made of the potential impacts once the development is operational.
- b) It needs to be ensured that adverse air quality impacts are avoided and mitigated where necessary, such as in accordance with the recommendations of the AQIA.

Hazardous Materials

- a) The EIS has confirmed that the threshold triggers for the storage of hazardous materials will not be exceeded, and that potentially hazardous or potentially offensive industries are not proposed for the warehouses.

General Comments

- a) The mitigation measures contained in the EIS, as put forward in the technical documents, should be incorporated into any approval issued by DPHI to ensure that potential environmental impacts can be effectively managed.
- b) Conditions of consent must 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.

6. Waterways Considerations

- a) There are several concerns raised with the proposed development with respect to Waterway Health matters.
- b) The information provided in the Civil Report appears to be inconsistent with the approvals related to the site and the Aspect Industrial Estate approval. There is also a need to modify the AIE development (SSD-10448) which has been linked to this site as part of their stormwater management commitments.
- c) It is recommended that prior to determining this application, the Department should ensure that the controls are met in terms of compliance with the stormwater and waterway health targets (for both the construction and operational stages). The department should ensure that the MUSIC modelling and design of stormwater temporary infrastructure has been prepared in accordance with the Technical guidance for achieving Wianamatta South Creek stormwater management targets. This also needs to be considered in the context of the Aspect Industrial Estate needing to comply with its waterway health commitments.
- d) Passively irrigated street trees should be incorporated into the design of the streets. It is acknowledged this can be considered in detail as part of detailed designs. However, in the case the development is approved, a condition should be imposed to ensure that prior to completing detailed design the plans must be submitted to Council for review and approval (in the case of the roads to be dedicated to Council).
- e) With respect to the regional stormwater scheme, it is suggested that this should be fully resolved prior to developing the lots associated with the subdivision.
- f) Should the application be approved, adequate conditions will need to be in place to ensure that all temporary infrastructure is maintained until the regional infrastructure is available. Sufficient undeveloped land will also be required to be provided. The conditions should ensure that future development on the site achieves compliance with the Integrated Water Cycle Management (IWCM)

controls in the Aerotropolis DCP and in accordance with the *Technical Guidance for achieving Wianamatta South Creek Stormwater Management Targets (NSW Government, 2022)*.

- g) Conditions also need to be applied to ensure that adequate land is reserved for initial stages of the development for treatment and management of stormwater in the case the ultimate infrastructure is not available to connect to.
- h) Should the application be approved conditions should also be applied to ensure that all stormwater infrastructure, including GPTs, irrigation systems, ponds, wetland and bioretention systems etc., remains under the ownership, control, and care of the registered proprietor of the lots or until they are dedicated to Sydney Water for ongoing operation and maintenance. It is suggested that positive covenants and restrictions of use should also be placed to ensure that all privately owned systems will be maintained in perpetuity. Conditions may need to be included to manage the transition and decommissioning of the infrastructure once connection to the regional infrastructure is available in the case it is provided.
- i) 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 (they cannot be dedicated to Council). It is suggested that a positive covenant be applied to the satisfaction of the Drainage Manager.
- j) With respect to waterways, it is noted that 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.
- k) High efficiency sediment basins are required to be provided to meet the construction phase IWCM controls in the Aerotropolis DCP. It is noted that Type A and D basins have been adopted. Conditions will need to be included in any 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* (NSW Government, 2022).

7. Biodiversity Considerations

The site contains land located on Certified – Urban Capable Land as well as Excluded land under the CPCP therefore the development is subject to current legislative requirements including the BC ACT 2016 and EPBC Act 1999. The BDAR that has been provided is for impacts on development located on Excluded land.

Ultimately, the assessment as to biodiversity impacts is made by DPHI. The following comments are provided for their consideration:

- a) Table E2 states that 0.67ha of Cumberland Plain Woodland will be impacted as part of the proposal. These figures conflict with other calculations in the report which states that 0.76ha will be impacted.
- b) Some of the survey effort undertaken between 2018 and 2019 by Ecological Australia identified in Table 3 is more than 5 years old. The survey effort therefore cannot be relied upon in place of species survey as per Section 3.4 of the Biodiversity Assessment Method – Operational Manual Stage 1 which states ‘Surveys undertaken more than 5 years prior to the proposal lodgement date may be used to inform the assessment process but cannot be used in place of a species survey.’ 2.5 hours to traverse the entire site and undertake surveys in accordance with the Threatened Flora survey guidelines does not seem long enough to adequately survey the entire site.
- c) Surveys were not undertaken during survey specified period for *Hibbertia fumana* so therefore this species should not be excluded without proper justification.
- d) The statements made in the Serious and Irreversible Impact Assessment for Cumberland Plain Woodland are not supported. The assessment refers to Figure 7-1 but there is no Figure 7-1, and the

supporting information does not demonstrate that the proposal will have a negligible impact on CPW.

- e) In addition to the mitigation measures outlined in Section 9.1 the works should also include the salvage and relocation of felled native trees to the riparian zone east of the development site in lands zoned as ENZ under the guidance of the engaged Ecologist.
- f) The BDAR does not provide an EPBC Assessment or consider threatened flora and /or fauna species listed under the EPBC Act and whether they will be significantly impacted. Only threatened ecological communities and migratory species have been discussed.
- g) The Wildlife Hazard Assessment identifies that the planting groups on the Landscape Plan do not comply with the DCP Section 2.10.3. It also recommends preparing a Wildlife Management Plan for the site.
- h) The development will also need to seek to have the Dam Dewatering plan amended/ updated to outline the rescue and relocation of aquatic fauna noting that the Dam Dewatering plan provided does not address the salvage and relocation of aquatic fauna.

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

Yours sincerely,



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