



Our reference: P-975453-L3G5

Contact: Jake Bentley

Telephone: (02) 4732 8087

17 September 2025

Thomas Bertwistle

NSW Department of Planning, Housing and Infrastructure

Email: Thomas.Bertwistle@planning.nsw.gov.au

Dear Thomas,

Council Response to SSD-81434988- Alspec Warehousing Facility at 221-235 Luddenham Road, Orchard Hills, NSW, 2748

Thank you for providing Penrith City Council with the opportunity to comment on the abovementioned development proposal.

Council staff have reviewed the information referred for comment on 19 August 2025 and the following comments are provided for the Department's consideration.

1. Planning Considerations

- The Environmental Impact Statement (EIS) mentions previous approvals that benefit the site in which the development relies upon for servicing. The approvals include the following:
 - a) DA24/0294 Community Title super lot creation and site preparation works including bulk earthworks, stormwater management infrastructure, flood storage basins and a collector road,
 - b) DA24/0654 construction and operation of a sewage treatment plant to service the Alspec Industrial Business Park (to be endorsed by IPART),
 - c) DA24/0330 construction and operation of a warehouse and distribution centre with a specialised tenant (with temporary sewage pump out), and
 - d) DA24/0677 construction and use of a warehouse and distribution center (speculative tenant).

Furthermore, the site is subject of the following Development Applications currently being considered by Council and other authorities:

- a) Alspec Manufacturing SSD, and

Penrith City Council
PO Box 60, Penrith
NSW 2751 Australia
T 4732 7777
F 4732 7958
penrith.city

- b) DA25/0318 construction of a Left-In/Left-Out unsignalised intersection from Luddenham Road.

The site is also subject of a Voluntary Planning Agreement between Council and the developer which includes provision for external road network upgrades including the construction of a signalised intersection between Patons Lane and Luddenham Road and a round-a-bout at Patons Lane and the Collector Road. The timing of the above-mentioned works is prior to the issue of an Occupation Certificate (as well as other milestones for other VPA obligations).

The Departments attention is drawn to the above, it shall be ensured that the required servicing (including but not limited to – ultimate stormwater management and treatment measures, Collector Road, external road upgrades and sewage management facilities) is available to the development at the relevant time. In addition, DA24/0294 seeks to prepare the land for development, therefore, the timing of these works will also need to be considered.

DA24/0294 includes the subdivision of the subject land by way of Community Title Subdivision. The DA24/0294 consent conditions require encumbrance to be registered on the title of the future lots. Considering the land is yet to be subdivided the encumbrances are not yet on title. The Department is encouraged to review the DA24/0294 consent conditions to ensure consistency with the proposal, in particular the following conditions are mentioned:

- a) Condition 29 – includes provisions for Noise Impact Assessments to be provided which assesses consistency with individual lot contributions from the approved cumulative Noise Impact Assessment. Should exceedances from the individual lot contributions be found then a new cumulative assessment is required.
- b) Condition 90 – requires suitable sewerage services to be available as well as required easements, covenants, restrictions and management schemes to be in place for its sufficient operation.
- c) Condition 91 – requires development to demonstrate the lot yield within Clause 7.24 of Penrith Local Environmental Plan 2010 can be achieved.

Council's City Planning Team is currently reviewing an amendment sought to Chapter E18 Luddenham Road Industrial Business Park of Penrith Development Control Plan 2014 which seeks to include a concept

masterplan in address of Clause 7.24 provisions of Penrith Local Environmental Plan 2010.

- The Department is encouraged to consider northern boundary retaining wall impacts on plantings endorsed under DA24/0330. The timing of planting will need to be considered and ability for plantings to grow to potential.
- The canopy coverage parking provisions have not considered the heavy rigid parking location at the western boundary of the site. Tree planting should be considered in this location to provide shade across the car park and cool the western elevation of the building which will be exposed to afternoon sun.

2. City Planning Considerations

Voluntary Planning Agreement – Luddenham Road, Orchard Hills (VPA)

The Voluntary Planning Agreement – Luddenham Road Orchard Hills (VPA) as executed on 14 May 2024 applies to the development subject to this SSD. The following must be considered in assessment of this SSD and preparation of suitable conditions prior to consent:

Clause 11.2 – Security

- a) Under clause 11.2(c), prior to the issue of any Construction Certificate or Subdivision Works Certificate for any part of the Development approved by a consent granted under the Act, the Developer must provide to the Council Security in an amount equivalent to 125% of the agreed value of the Works.
- b) In this clause, Security means a Bank Guarantee or Bond.
- c) In line with the above, a suitable condition must be provided within the consent, prior to determination, consistent with Clause 11.2.

Clause 11.4 – Restriction on the issue of Certificates

- a) Reference to the requirements of clause 11.4 must be considered to inform suitable conditions prior to issuing consent, in particular timing triggers for all works items within Schedule 1 – Contributions table (Attachment A to the end of this memo).

Clause 7 – Application of s7.11 and s7.12 of the Act

- a) Under clause 7(a) of the VPA, the application of 7.11 Contributions under the Environmental Planning and Assessment Act 1979 (EP&A Act) are excluded.
- b) Under clause 7(b) of the VPA, section 7.12 contributions under the EP&A Act are not excluded and still apply to the development subject to this SSD.

Applicable Development Contribution Plans – Penrith City Section 7.12 Development Contributions Plan 2020 (as amended)

- a) In accordance with the above, the Penrith City Section 7.12 Development Contributions Plan 2020 (as amended) applies to the development subject to this SSD at a rate of 1% calculated against the proposed cost of works.
- b) In line with the proposed cost of works provided in Appendix S – EDC being \$171,807,325 (excluding GST) the contributions applicable to this development under the CP equate to approximately \$1,718,073.25 (excluding GST). Prior to consent of the SSD, the final cost of works must be provided to Council for preparation of a development contributions quote to inform conditions of consent.

Planning Proposal (PP-2025-1360) to amend the Height of Buildings Map under Penrith Local Environmental Plan 2010 (Penrith LEP 2010)

- a) The SSD proposes a high bay warehouse of 39 metres, which exceeds the current maximum building height of 24 metres under Penrith LEP 2010. To facilitate this, it is noted that the applicant has lodged Planning Proposal PP-2025-1360 seeking to amend the Height of Buildings Map to permit up to 40 metres on part of the site.
- b) The Luddenham Road VPA, executed in May 2024, is linked to the Planning Proposal (PP-2022-1052) that rezoned the site and introduced the current height control of 24 metres. As noted in Section D of PP-2025-1360 a minor amendment to the VPA will be required to update the definition of “Instrument Change” so it captures the proposed height amendment.

Comments:

- a) The SSD, in its current form, is not consistent with the existing LEP controls. Progression therefore depends on the outcome of the Planning Proposal process, which remains under assessment by Council and subject to a Gateway determination and exhibition.
- b) Should the Planning Proposal ultimately be supported and finalised, a consequential amendment to the VPA would be required to align its terms with the updated Instrument Change.
- c) DPHI should ensure that any determination of the SSD appropriately accounts for the status of the Planning Proposal and need for VPA consistency.

3. Development Engineering Considerations

It is noted that the subdivision DA which created the lots (DA24/0294) includes the delivery of earthworks and civil infrastructure has been approved and the subject proposal is mostly consistent with the overall design. Council's Development Engineering Department have reviewed the documents and raise no objections to the proposal, subject to the following matters are conditioned or addressed:

- a) The egress of heavy vehicles is designed in manner that two trucks could potentially be leave simultaneously creating conflict as they cross each other's travel path during the manoeuvre on to the public road. It is recommended that the weighbridge is relocated further west within the site to allow space for the formation of a single travel lane at the exit driveway.
- b) S138 Roads Act approval is to be obtained from the Roads Authority for any works within the public road reserve. Applicable bonds are to be paid to Council as required for the S138 Roads Act approval. A suitable condition to be provided accordingly.
- c) A suitable condition is to be provided for the delivery of external road works are per the VPA prior to the issue of the first OC. This has been mentioned previously in this letter.

4. Traffic Engineering Considerations

- a) Notice to Transport for NSW and Sydney Metro is recommended. Previous development applications have been referred to Transport for NSW and Sydney Metro and they have extensively commented on the

impacts of the construction traffic which is still relevant to the subject site.

- b) The civil plans are not of sufficient detail (dimensions not provided for assessment purposes) to assess whether compliance with AS2890.2 has been demonstrated regarding any proposed truck entry/exit driveways and heavy vehicle parking and with AS2890.1 in regard to car parking areas. The Department should review this component to ensure suitable vehicle movements and parking can be achieved.
- c) 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.
- d) The Department should seek clarification for the Traffic Management Plan noting provision of construction parking spaces and access to the development location.

5. Environmental Management

Chapter 4 of SEPP (Resilience and Hazards) 2021

The consent for DA24/0294 requires unexpected finds to be addressed by an appropriately qualified consultant in accordance with the 'Bulk Earthworks Phase Unexpected Finds of Contamination in Soil Management Protocol' (Doc Ref: 10791EV.P.68-R09). Subsequent DA's granted Council consent have also required unexpected finds to be dealt with in accordance with this protocol. The Unexpected Finds Protocol commits to the remediation of any unexpected finds, should they occur, by removal of any identified contamination, and off-site disposal.

Noise

Development consent (DA24/0294) for the AIBP bulk earthworks and subdivision imposes the following condition (number 29):

- a) ***Prior to the issue of the Subdivision Certificate, a positive covenant is to be registered against each new land title/Lot that refers to the 'Noise Impact Assessment (Ref: E230918 RP2 version 3)' prepared by EMM and dated 20 February 2025 (the EMM Report).***

The covenant is also to:

- i. *reference 'Appendix A Individual Lot Contributions' of the EMM Report,*
- ii. *provide advice on the requirement to prepare a Noise Impact Assessment Report (prepared by a suitably qualified acoustic consultant) to determine the design and construction measures required to minimize noise impacts from future development (built form and operational activities),*
- iii. *provide advice that Development Applications submitted to Penrith City Council for development of individual Lots are to include a Noise Impact Assessment Report (prepared by a suitably qualified acoustic consultant) demonstrating an ability to achieve the noise criteria established within the EMM Report. Where a proposed development exceeds the individual lot contribution detailed in Appendix A of the EMM Report, a Cumulative Noise Impact Assessment is required to be submitted with the Development Application, that provides an updated review of the EMM Report, in accordance with the NSW EPA Noise Policy for Industry, and that assesses and justifies the proposed exceedance in consideration of the cumulative impact of development of the Alspeck Industrial Business Park as a whole.*

The authority recorded as empowered to vary, modify or extinguish the positive covenant is to be Penrith City Council.

The condition requires that for development applications submitted to Council, where a proposed development exceeds the individual lot contribution detailed in Appendix A of the EMM Report, an updated Cumulative Noise Impact Assessment is required to be submitted with the DA, that assesses and justifies the proposed exceedance in consideration of the development of the AIBP as a whole. Should consent be granted for the warehouse subject to this SSD, with exceedance of the lot contribution allocated to warehouses 8 & 9, an updated cumulative noise impact assessment will be required to support future DA's to Council, confirming allocated lot contributions considerate of the exceedance.

In terms of road traffic noise resultant of the proposed Lot 11 warehouse, whilst this warehouse is not anticipated to singularly increase existing road traffic noise levels by more than 2dB, operation of the overall AIBP is predicted to exceed this criteria. It is anticipated that this issue shall be addressed during assessment of the future DA that is required to be submitted to Council for construction of the Paton's Lane/Luddenham Road intersection. At that stage, detailed road traffic assessment shall

occur which will consider the road traffic generated by the proposed Lot 11 warehouse, in the context of the overall operation of the AIBP.

OSSM/Wastewater

a) Consent for DA24/0294 (condition number 90) imposes requirements for the application of a positive covenant upon each individual Lot, that imposes the following restriction:

i. *Prior to the issue of a Subdivision Certificate, the linen plan shall be accompanied by an 88B instrument creating a Restriction on the use of the land, applicable to all lots, for the following purpose.*

(1) No wastewater generating development shall be permitted on the lot/s until the following has been satisfied:

- *An agreed arrangement for sewerage services is available,*
- *The required easements, covenants and restrictions have been imposed on the lots (both the benefitting and burdened lots) relying on the agreed sewerage service, and*
- *The Community Title Association Management Scheme is in place to address the ongoing maintenance and responsibility for the agreed sewerage management arrangement/system.*

Council shall be nominated as the only authority permitted to modify, vary or extinguish such restrictions.

Development Application DA24/0654 consents to the construction and use of an on-site sewage management system. Construction and operation of the system is dependent upon a Water Industry Act Scheme Approval being issued by IPART. This SSD application informs that the applicant is in the process of seeking the required Water Industry Competition Act (WICA) approval. In determining applications, DPHI and Council will need to ensure that development of each Lot is not inconsistent with the WICA application currently being assessed by IPART, and that there is a mechanism to capture any issues or concerns identified by IPART during the WICA application process. As development of the AIBP proceeds and the IPART assessment process progresses, it needs to be ensured that approvals under each legislative pathway are aligned and not inconsistent in terms of required wastewater infrastructure design and provision.

6. Biodiversity and Wider Considerations

As this is state significant development, Council notes that the Department is the assessment and consent authority for the application. 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 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. This is because the SSD/SSI policy framework has removed Council from an assessment or determination function and by doing so, all assessment functions must be undertaken by the empowered assessment and consent authority being the Department. This can be varied when consultation relates specifically to the design and location of infrastructure or works that are intended to be dedicated or transferred into Council's ownership.

7. Waterways Considerations

The Department shall consider the requirements for the below documents/detail to inform holistic assessment of the application.

- a) The electronic version of the MUSIC model has not been provided for independent review.
- b) Draft Operation and Maintenance manual should also be provided for the proposed stormwater treatment measures.
- c) No MARV calculations have been provided and independent review. Councils DCP requires the MARV annual runoff targets to be achieved.

8. Waste Management Considerations

Warehouse Waste Generation Rates

- a) The waste generation rates currently proposed for the warehouse component appear to be underestimated and based on office use within a warehouse environment rather than specific rates relating to actual anticipated use. The Department should be satisfied that any revised waste generation rates requested for review reflect the anticipated operational use of the warehouse. Accurate projections

are necessary to ensure that the frequency of waste collection and the sizing of waste infrastructure (bins, storage rooms, etc.) are appropriate for the scale and nature of activities in the warehouse.

FOGO Waste Diversion Requirements

- a) Food Organics and Garden Organics (FOGO) waste generated by the facility must be directed to an appropriately licensed processing facility and not sent to landfill. It is important to note that, effective July 2026, the FOGO mandate will apply to relevant businesses. It is recommended that the Department request the waste management strategy outline the mechanisms for separating, storing, transporting and processing FOGO waste in accordance with this mandate, including contracts or arrangements with licensed processors.

Integrated Waste Collection Room

- a) To enhance external amenity and streamline waste management operations, the Department should consider the inclusion of an integrated waste collection room. This space will also facilitate the storage of the required bins and reduce the risk of odours or pest attraction. The room should be designed with adequate ventilation, accessibility for collection vehicles, and sufficient capacity to accommodate all waste streams generated on-site.

RORO Bin Utilisation and Clearance Requirements

- a) The facility is expected to utilize Roll-On Roll-Off (RORO) bins for waste collection. It is recommended that the Department request detailed section plans to demonstrate that the required height clearances are afforded for the safe and efficient collection of these bins. This includes clearances for both the RORO vehicles and the bins during loading and unloading operations. Ensuring proper clearances will mitigate the risk of damage to property and equipment.

Should you wish to discuss any aspect of Council's comments, please contact me on (02) 4732 8087.

Yours sincerely,



Jake Bentley

Senior Development Assessment Planner

Schedule 1 Contributions Table

Item Contribution	Details	Timing
Works		
1. Upgrade of Patons Lane from Luddenham Road through to the new western estate entry roundabout that provides access into the Land	As shown in Works in Kind Plan.	Prior to the issue of the first Occupation Certificate for the Development
2. Construction of one (1) new roundabout at the estate entry on Patons Lane and one (1) new intersection on Luddenham Rd to the satisfaction of Council and Transport for NSW	As shown in Works in Kind Plan.	Prior to the issue of any Occupation Certificate for the Development
3. Construction of an intersection at the secondary site access to the satisfaction of Council and Transport for NSW	As shown in Works in Kind Plan.	Prior to 1 January 2026
Dedication of Land		
4. Dedication of land to Council for the widening of Luddenham Road	As shown in Land Dedication Plan	Prior to the issue of any Occupation Certificate for the Development.
Other Benefits		
Provision of road access to the 'Additional Lands' in the Eastern and Southern parts of the Land.	As shown in Land Dedication Plan.	