

Our reference: P-1010445-Y4P4  
Contact: Sandra Fagan  
Telephone: (02) 4732 7992

24 October 2025

Department of Planning, Housing and Infrastructure

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

Dear David,

**Council Response to Modification Application – MP09\_0074-Mod-3  
Increase clay/shale extraction dispatch limit – BINGO Patons Lane  
Resource Recovery Facility and Landfill at 123-179 Patons Lane,  
ORCHARD HILLS, NSW, 2748**

Thank you for providing Penrith City Council the opportunity to comment on the subject Modification Application.

Council has reviewed the information referred for comment on 14 October 2025 and provides the following advice for the Department's consideration:

**1. Planning Consideration**

- a) DPHI should consider whether the proposed increase in extraction limits (160,000tpa to 500,000tpa) and the proposed increase in daily truck movements (256 to 570) meets the requirements for a modification of a development consent. The test of substantially the same, at section 4.56(1)(a) must be made with regard to the development for which consent was originally granted and before any modifications.
- b) Given the length of time since the SSD approval was first granted (in 2012) and that the proposed modification seeks an intensification of use, DPHI should consider whether the consent conditions are still fit for purpose and address current environmental standards and requirements. DPHI might consider whether there is the need to update conditions to bring them in line with contemporary environmental standards.

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

- c) The Department is requested to consider impacts to Patons Lane and Luddenham Road, including the existing intersection, as the proposal will result in increased vehicle and truck movements. This is both in relation to traffic flows and possible damage to the surface of public roads on the haulage route.
- d) Patons Lane is the primary vehicle access point for both the Sydney Metro stabling site and the developing Alspec Industrial Estate. The traffic report should address cumulative traffic volumes considering the Alspec Industrial Estate. Please see comments below from Council's Traffic team.
- e) The executed Planning Agreement between the landowner of the Alspec Industrial Estate and Council requires the upgrade of the Patons Lane / Luddenham Road intersection to a signalised intersection. To date, these works have not commenced and have not received development consent. It is understood that the relevant developer will be lodging a Development Application with Council seeking development consent for the required road upgrade works. The applicant is encouraged to engage with the developer of the Alspec site should further detailed information be needed relating to these works and/or the ongoing development of the Alspec site.
- f) DPHI should consider whether acoustic impacts have been demonstrated cumulatively, considering ongoing industrial development in the area, including the Alspec Industrial Estate.

## 2. Traffic Consideration

- a) The applicant should verify the traffic counts that have been used to assess the intersection performance at Luddenham Road / Patons Lane and Mamre Road / Luddenham Road. Considering the existing development (Bingo Industries) and developments that are currently being undertaken (Sydney Metro Stabling Yard, Alspec Industrial Business Park, Mamre Road Upgrade), the traffic volumes used for the assessment of performance of these intersections are considered low.
- b) The modification will increase heavy vehicle movements from 256 to 570 vehicle movements per day, resulting in about 40 additional heavy vehicle movements at the intersection of Luddenham Road and Patons Lane, which will have a significant impact on the performance of the intersection.

- c) The applicant shall undertake cumulative traffic impact of the proposal regarding the following, once the traffic counts are verified:
  - a. Impact of the proposal on Sydney Metro stabling yards construction works and future use of the facility
  - b. Impact of the proposal on the use of Luddenham Road/Patons Lane intersection by AIBP (Alspec Industrial Business Park) as this is their primary access
  - c. Impact of the proposal associated with the upgrade of Mamre Road at Luddenham Road
  - d. Impact of the proposal associated with the future upgrade of intersection of Luddenham Road and Patons Lane to a roundabout and ultimately to a signalised intersection.

### **3. Environmental Management Consideration**

Because of the State Significant Development classification of this application, the Environment Team notes that the Department is the assessment and consent authority for the proposal. As part of this assessment, the Department should be satisfied 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. DPHI should ensure that the site is suitable, or can be made suitable, prior to its use (as modified).

#### 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 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) Any adverse impacts on surrounding receivers and the environment should be avoided and mitigated where necessary, in accordance with any relevant planning instrument and the relevant NSW EPA guidelines.
- b) Noting that the development is considered a 'scheduled activity' under the Protection of the Environment Operations Act, the proposal will also be subject to the environmental assessment and regulation of the NSW Environment Protection Authority.

### General Comments

- a) DPHI should ensure that any mitigation and/or monitoring measures contained in the EIS or 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.
- b) 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.

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

Yours sincerely,



Sandra Fagan  
Principal Planner

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