



Ms Natasha Borgia
City Planning Manager
Penrith City Council
PO Box 60
PENRITH NSW 2751

Via email: natasha.borgia@penrith.city

Dear Natasha,

Thank you for your correspondence to the Department of Planning, Industry and Environment seeking preliminary advice on a planning proposal for 1-4 Old Bathurst Road, Emu Plains (PP-2020-4118) in the context of the recent Flood Prone Land Package.

The Flood Prone Land Package, which commenced on the 14 July 2021, includes several changes including an amendment to the Ministerial Section 9.1 Direction 4.3 Flood Prone Land. The provisions seeking to restrict significant increases in development potential and development in floodway areas still remain in the Direction and will need to be addressed by this planning proposal. Some of the important new provisions are:

- Development in the flood planning area needs to consider flood evacuation risk and should not place additional pressure of government resources required in an emergency flood event.
- Planning proposals should not permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.

The planning proposal seeks to rezone land from *Deferred Matter Rural 'D'* to *IN2 Light Industrial*. The proposal is inconsistent with Clause 5 of this direction as a planning proposal must not rezone land within the flood planning area from Rural to Industrial. Further assessment is required to address consistency with other parts of the Direction.

It is understood that some cut and fill is also proposed. The preliminary cut and fill design plan submitted demonstrates minor filling of Lot 1, with the fill relocated from Lot 2 to ensure it is flood free at the 1 in 100 flood level. While cut and fill is not precluded, under clause 6 of the direction, any changes to the natural surface levels would need to demonstrate that the development will not result in significant flood impacts to other properties.

Our initial review of the planning proposal against the new flood planning package is that there are no particular policies, or draft studies underway that would preclude this planning proposal being assessed on its merits, and any inconsistencies with Direction 4.3 could not be considered by the Minister where they could satisfactorily address Clause 9 of the Direction.

Consistency with this Direction is an important threshold issue, and it is recommended that the applicant provide supporting documentation and the necessary flood studies to assess the planning proposal against Direction 4.3, and consistency with Clause 9 of the Direction, as

part of the Gateway application. Council may need to provide the proponent with guidance on whether Clause 9(b) or 9(c) should be utilised to justify the inconsistency with this Direction.

We hope this is of some assistance to you and thank you for your referral. If you have any more questions, please contact Ryan Klingberg, Senior Planning Officer at the Department of Planning, Industry and Environment on 9860 1561.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jane Grose', written in a cursive style.

Jane Grose
Director, Central (Western)
Central River City and Western Parkland City