

5 October 2022

Our Ref: 11584-~1

Donna Clarke
Development Assessment
Penrith City Council
601 High Street
Penrith NSW 2750
Attn: Donna Clarke – Consultant Planner

Dear Ms. Clarke,

RE: DA22/0417 – Response to RFI - Supporting information
Property: 158-164 Old Bathurst Road, Emu Plains

Reference is made to the above development application (**DA**) seeking consent for the proposed industrial subdivision of the land at 158-164 Old Bathurst Road, Emu Plains (the **Site**).

This correspondence builds on previous information submitted under letter/s dated:

- 20 September 2022 – containing Transport and Traffic information

The information provided in this correspondence mainly relates to **layout** and **contamination** issues raised by Council. Appended to this correspondence is:

- Attachment A – Revised Concept Subdivision Plan
- Attachment B – Revised Concept Subdivision Plan – Amendments highlighted.
- Attachment C – Contamination Data Gap Analysis
- Attachment D – Detailed Response to Contamination items
- Attachment E – Site Auditor Review

We are currently updating the DA and supporting information to respond to all the items raised by Penrith City Council (**Council**) in the letter dated 14 June 2022. The information provided in this letter and previous correspondence will be included in a consolidated set of all the updated documentation submitted under a separate cover.

In an effort to enable an efficient assessment and approval, Council has agreed to accept some reports and plans for assessment prior to submission of the full response package. The updated reports and additional information are shown in **Table 1** below, which outlines;

- The updated reports/assessments to be provided,
- The date these reports/assessments were provided, and
- The reports/assessments provided in this correspondence.

The following table will be included in all subsequent correspondence and provides a running checklist of materials provided.

Table 1 Summary of supporting documents

Updated Reports/Assessments	Date provided	Included in this Letter
Arborist Report - Tree removal plan - Tree removal and retention table		
Biodiversity Development Assessment Report		
Remediation Action Plan – additional assessments/details	30 September 2022	✓
Flood Impact Assessment		
Landscape Plan - Visual impact assessment - Pedestrian and cycle circulation plan		
Subdivision Concept Plan	30 September 2022	✓
Addendum to the SEE		
Stormwater Management Plan - Wetland Design - MUSIC modelling		
Transport Impact Assessment & Road Safety Audit	20 September 2022	
Response to Council's RFI letters and meeting notes		
Confirmation from Council Asset Management Department - Acceptance of infrastructure		
Signage and Fencing plan		
Swept Paths		

Revised Subdivision Concept Plan

Provided in **Attachment A** is the revised Subdivision Concept Plan. The Revised Concept Plan includes several amendments that reflect issues raised by Council. The amendments included in this revised Subdivision Concept Plan are highlighted in **Attachment B**.

The revised Concept Plan has been prepared to:

- Maximise the retention of vegetation of value. This will include maintaining the vegetation where possible along Old Bathurst Road, the train line interface, the interface with the Transport for NSW commuter car park as well as in the Site's south western corner.
- Removal of direct vehicular access from Old Bathurst Road and replacement with a pedestrian access as well as minor realignment/rationalisation of the David Road/Old Bathurst Road intersection.
- Exemplary landscaping that will result in a significant net increase in canopy cover as well as a logical pedestrian footpath strategy that includes pedestrian connectivity through the Site as well as along the Old Bathurst Road frontage and down David Road.
- Rationalisation of lot boundaries so that they result in compliant and logical boundaries that will support future industrial uses. This subsequently results in a reduction of lots from 41 to 39.
- Reconsideration of the drainage infrastructure including the constructed wetlands at the south western corner of the site. Including amalgamating the stormwater infrastructure lot with the adjoining lot, which will:
 - Remain a Torrens Title allotment,
 - Will be kept in Council's ownership, and
 - Be managed (including the infrastructure) by Council as owners of the lot.

Subdivision Concept Plan Assessment

Council's correspondence outlined layout and design issues with the original proposal. How the revised Subdivision Concept Plan has addressed these items is detailed in **Table 2** below.

Letter ref	Council comment	Response
C i.	<i>The second access road to Old Bathurst Road MC04 should be deleted.</i>	The access road has been deleted.
C ii.	<i>Any additional road widening as a result of the signalised intersection, pathway and the like is to be incorporated and boundaries relocated accordingly.</i>	To accommodate the intersection geometry requested by Council (which includes the squaring of the intersection of Old Bathurst Road and David Road) the lot configuration has been amended, requiring a slight loss of site area in lieu of road dedication.
C iii.	<i>A pedestrian pathway is required from the revised internal road network to Old Bathurst Road.</i>	A pedestrian pathway has been provided along Old Bathurst Road as well as a through site link from the north eastern corner of the site to the internal road network. The proposal has also allowed area should a link be provided between the Site and the adjoining Transport for NSW car park in the future.

Letter ref	Council comment	Response
C iv.	<i>The road curvature issues identified in the discussion in Attachment 1 below is to be corrected.</i>	Road curvature complies with Council's minimum standards and will be demonstrated in the civil package submitted under separate cover.
C v.	<i>Lot 33 should be incorporated into the drainage lot.</i>	Lot 33 has been incorporated into the drainage lot.
C vi.	<i>Lots 34, 35 & 36 should be combined for one usable lot, without the narrow pinched frontage to MC01 and to retain the mounding and mature trees along the western boundary.</i>	<p>Lot 34 and 36 have been combined to ensure no access off MC02 is required.</p> <p>Thanks to the removal of the access road direct from Old Bathurst Road, the lots fronting Old Bathurst Road have been reconfigured so that Lot 36 (now Lot 34) will have a frontage greater than 20m to the internal road and has an overall area that exceeds the minimum lot size (6,000m²) by 2,000m².</p> <p>Although the mounding is not being retained, a significant part of this lot has been reserved for suitable landscaping that will be demonstrated in the Landscaping Plans that will be submitted under separate cover.</p>
C vii.	<i>No lots should rely on vehicular access to MC02, being the main entry road into the subdivision.</i>	No lots rely on access of MC02.
C viii.	<i>The lot layout along Old Bathurst Road is to be altered to provide the required 50m width to each lot (not provided currently to Lot 36) and to incorporate the land no longer required for the road MC04.</i>	All lots with frontage Old Bathurst Road exceed the minimum 50m width requirement.
C ix.	<i>The boundary corners of the lots should meet and not be off-set.</i>	The boundaries have been rationalised.
C x.	<i>The corner lots should be enlarged given that additional land is lost with two frontages and the need for splay corners.</i>	Corner lots generally exceed the minimum lot size. It is demonstrated in further sections of this response, that irregular shaped lots still have sufficient area to accommodate a suitable building envelope.
C xi.	<i>The loop road reserve should extend along the eastern and southern boundaries rather than lots to allow for additional verge width (minimum 8m and increasing) to retain mature trees along these boundaries within the resulting verge.</i>	The Applicant has been liaising with Council and the arborist to design a suitable road design that will run along the eastern boundary of the site and provide sufficient verge to retain existing trees, as well as allow opportunity to enhance the habitat for the Swift Parrot. Further detail will be provided in the Civil Package and Landscape Design provided under separate cover.

Letter ref	Council comment	Response
		<p>It was determined that it would be a better urban design outcome to provide lots backing onto the southern boundary. A road running along the southern boundary would mean the side elevation of the existing industrial building adjoining the site would address this new public road.</p> <p>The Civil Engineering Design has been informed by input from the arborist to ensure that rear allotment drainage can be maintained across the southern boundary, which will also allow for the retention of existing trees. The easement for rear allotment drainage will also ensure that no built form will occur in this area, protecting the existing trees.</p>
C xii	<i>Allow for retention of mature trees along the boundaries and existing landscaped mounding along the western boundary and realign lot boundaries or increase lot sizes to accommodate the trees.</i>	<p>The Landscaping Plan and Tree Retention Plan will be provided under separate cover and will show dramatic increase in the trees being retained under the revised proposal to that originally submitted.</p> <p>The majority of the mounding in the north western corner of the site is proposed to be removed. This is on account:</p> <ul style="list-style-type: none"> - Part of the site area in this location is reduced to accommodate the amendments to the intersection requested by Council. - To accommodate suitable stormwater and drainage, the levels across the site are being reconsidered. - Damage to the existing vegetation is required to undertake testing of the mounds for contamination. If contamination is present – remediation may result in further removal of existing vegetation. - The vegetation is not of high value. - Proposed landscaping can be provided to screen the development and include species of a higher ecological value that are coherent with the surrounding planting schedule. <p>It would be unreasonable to require the mounds to be retained when an equal or better outcome can be delivered.</p>
C xiii.	<i>The area identified in the TfNSW letter which is subject to a lease must be considered in the revised layout, and details provided regarding the length of the lease, proposed mechanisms to prevent buildings or structures over the lease area, and the</i>	<p>The Transport for NSW lease expires 1 October 2022.</p>

Letter ref	Council comment	Response
	<i>intended timing if the land is to be incorporated into individual lots.</i>	

Section 4.15 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) requires a consent authority to take into consideration the applicable matters in relevant environmental planning instruments and development control plans. The primary environmental planning instrument that applies to the proposal is the *Penrith Local Environmental Plan 2010* (**PLEP 2010**), whilst the applicable Development Control Plan is the *Penrith Development Control Plan 2014* (**PDCP**).

Assessment against the PLEP 2010

Table 2 provides an assessment against the relevant provisions of the PLEP 2010 and demonstrates that the development remains compliant with the planning instrument.

Table 2 Assessment against the PLEP 2010

Clause	Comment	Comply
Part 1 - Preliminary		
CI 1.2 Aims of Plan	The proposal is consistent with the aims of the Plan as it represents the orderly and economic development or land, that will support future industrial uses.	Yes
CI 2.6 Subdivision requires development consent	This DA seeks development consent for subdivision of the land.	Yes
Land Use Table		
IN1 General Industrial zone	The proposal meets the objectives of the IN1 zone by proposing subdivision to prepare the site for future industrial development that is consistent with the zoning of the site. The proposal also includes the delivery of stormwater infrastructure (environmental protection works) which is permitted with consent in the zone.	Yes
Part 4 – Principal Development Standards		
CI 4.1 Minimum subdivision lot size	Two minimum lot size controls apply to the site under the PLEP 2010. The area fronting Old Bathurst Road has a minimum lot area of 6,000m ² , whilst the balance of the site has a 2,000m ² applied. The proposed development includes a configuration that meets these minimum lot size controls.	Yes
CI 4.3 Height of buildings	The proposal does not include any built form	N/A
CI 4.4	The proposal does not include any built form	N/A

Clause	Comment	Comply
Floor space ratio		
Part 5 - Miscellaneous Provisions		
CI 5.1 Relevant Acquisition Authority	No part of the site is mapped on the Land Reservation Acquisition Map under the PLEP 2010.	N/A
CI 5.10 Heritage Conservation	No part of the site or adjoining land is identified as having any heritage items or is located in a heritage conservation area.	N/A
CI 5.21 Flood planning	<p>The existing Site conditions may incur some minor flooding (to a depth of 0.3m to 0.5m) during the 100year event. During a PMF event the site will likely be inundated.</p> <p>The proposal requires further filling of the land to achieve suitable drainage and hence the levels are raised above the 1%AEP event. The original proposal was supported by Stormwater Management Report prepared by Acor that outlines the relevant mitigation factors and concludes that no unreasonable impact will result from the proposed development and is accompanied by a Flood Emergency Response Strategy by Advisian. Updated reports from Acor and Advisian will be provided under separate cover, however they show that the flooding conditions will be improved as a result of the proposed development.</p> <p>We note that the Department of Planning Industry and Environment's direction in correspondence dated 17 July 2021 details when the referral process should be initiated under this clause. The application was referred to DPIE, who issued a response detailing that a "Decision is not required" – namely on account the Site and proposal does not meet the relevant triggers for their consideration by the SES.</p>	Yes
Part 7 – Other Provisions		
CI 7.1 Earthworks	Bulk earthworks are proposed to raise the site levels to enable drainage to the low points of the site and created a flood free platform on all lots for future industrial development.	Yes
CI 7.5 Protection of scenic character and landscape values.	The Site is identified within the Scenic and Landscape Values Map. The revised proposal will include the retention of significantly more trees than previously proposed. Furthermore, additional planting has been accommodated adjoining the train line and at the Old Bathurst Road/David Road frontage. Landscaping plans are prepared under separate cover that indicative view along these corridors to demonstrate that the landscape character and values will be improved as a result of the development.	Yes
CI 7.6 Salinity	The Geotechnical Report prepared by Douglas Partners have identified the presence of moderate and very saline soils in different parts of the site. The report indicates that these salinity levels are naturally occurring and are "not considered significant impediments for future redevelopment of the site, provided appropriate remediation or management techniques are employed".	N/A

Clause	Comment	Comply
CI 7.10 Essential Services	The site has access to water, sewer and power infrastructure, which will be continued through the estate.	Yes

Assessment against the PDCP (Building Footprint)

The revised proposal remains compliant with the PDCP as demonstrated in the Statement of Environmental Effects (**SEE**) submitted as part of the original DA. However, we recognise that Council has questioned whether specific lots in the development are able to accommodate a suitable building footprint that can accommodate a feasible industrial development. To determine whether lots have suitable configuration to accommodate an industrial building, a number of controls within the PDCP have been considered as well as a review of the existing surrounding development that has been established to the west of the Site.

These primary controls include:

- C11.4.1 – Subdivision lot widths
 - Industrial lots fronting Old Bathurst Road have minimum lot width of 50m.
 - All other industrial lots have a minimum width of 20m.
- D4.3 – Building setback and landscape
 - 15m setback to Old Bathurst Road
 - Industrial lots primary road setback 9m setback
 - Industrial lots secondary setback 5m
 - Nil setback requirements to side and rear boundaries (however if buildings are setback, landscaping to be provided if possible)
 - Where parking is provided between a building and the street frontage, the parking must be setback behind a 5m wide landscaped strip and the building must be setback 13m from the street.

We have undertaken a review of the building typologies delivered on adjoining land which has the same 2,000m² lot size development standard in the PLEP 2010 and 20m lot width requirement in the PDCP. In reviewing the development delivered on Pullman Place, 16 of the 19 allotments have established a building with a footprint below 1,500m² (see **Figure 1**).



Source: Nearmap 2022

Figure 1 Adjoining building footprints (Pullman Place)

Noting this information, we have revised the configuration of the following lots to ensure they can accommodate a suitable building footprint.

- **Lot 34 (formerly Lot 36)** – the frontage to the internal access road has been widened to 20m, being the minimum lot width dimension in the PDCP. The lot itself will exceed the minimum lot size by 2,000m².
- **Lot 33 (formerly Lot 33 and 34)** – represents the amalgamation of former Lots 33 and 34, to reduce any conflict from providing access off internal Road MC02.
- **Lot 32 (formerly Lot 32 and 33)** – to avoid the delivery of an unconventional triangular lot (former Lot 33), former Lots 32 and 33 have been amalgamated to create Lot 32.
- **Lot 4 and 5** – the orientation of these lots have been rotated 90 degrees to ensure the boundaries are square and regular. The lots meet the minimum lot size and exceed the 20m minimum width control.
- **Lot 9** – as demonstrated in **Figure 2**, utilising the setback controls within the DCP, the Lot can accommodate a building footprint of approximately 1,100m², which is consistent with the building size being delivered in surrounding industrial locality.

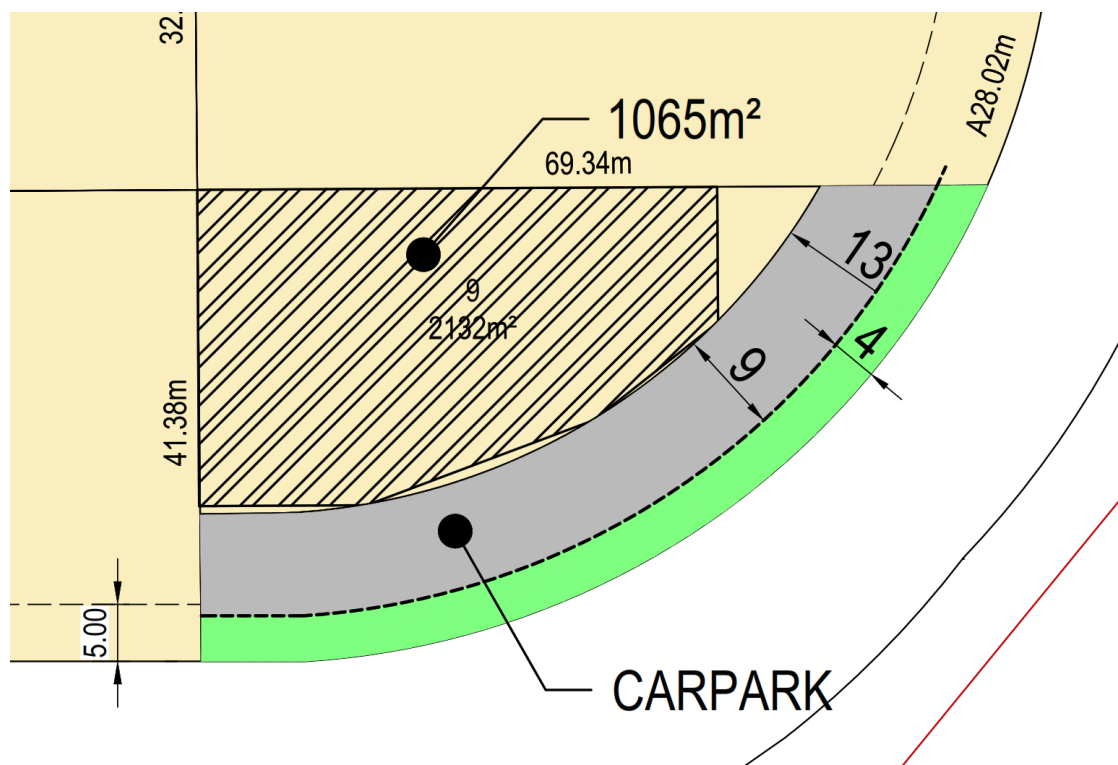


Figure 2 Available building envelope on Lot 9

Contamination

Attached to this correspondence is additional information to support the Remediation Action Plan (**RAP**) prepared by JBS&G. This includes subsequent investigations into the potential presence of asbestos in the ramps was undertaken as part of the "Pre-remediation Data Gap Analysis" described in Section 6 of the RAP. This investigation included (among other items) the quantification of any asbestos material in the two material ramps. JBS&G undertook five test pits on each of the identified ramps. The findings from these additional investigations are provided in **Attachment C** and shows that no asbestos was found in the ramps. Demolition of the ramps can therefore be undertaken without the need for decontamination.

In addition, JBS&G have provided a detailed response to the relevant items raised by Council in their 14 June 2022 letter (**Attachment D**). As requested by Council the additional information has been reviewed by the Site Auditor as detailed in **Attachment E**. The letter prepared by the Site Auditor has included comments, some of which the Auditor may require to be addressed prior to endorsing the final RAP, these include:

- The excavation/demolition of the ramps should be undertaken with caution as there may be discrete areas of contamination between the areas of the test pits. If any contamination is uncovered in the areas between the test pits, the unexpected finds protocol will need to apply.
- The Auditor acknowledged that the additional testing delineated the contamination in the area "southwest of the wet-cast building, and adjacent the substation between the dry-cast



building and southern small pipe production building” – however requests clarification whether samples that contained contamination require remediation.

- Confirmation of whether additional delineation of contamination is required for the area northeast of the substation.
- Consider the results from previous testing to further delineate areas of contamination around the former forklift maintenance area.
- Consider whether a long term environmental management plan would be suitable and how any asbestos cement pipework uncovered would be appropriately managed.

Council can be confident that the site can be made suitable for the proposed use through the methods proposed under the RAP, albeit with some additional considerations that may need to be provided to the Site Auditor before they issue the final Site Audit Statement. None of the comments provided by the Auditor indicate the site can not be made suitable for the proposed use. Council can condition that the additional information be provided to the site auditor and the RAP be amended if required.

Should you have any questions regarding information provided in this letter or attached, do not hesitate to contact me directly on 0403 239 230.

Yours faithfully

GLN PLANNING PTY LTD

MICHAEL HANISCH
SENIOR PLANNER



Attachment A – Subdivision Concept Plan



Attachment B – Subdivision Concept Plan Mark Up



Attachment C – RAP Gap Analysis



Attachment D – JBS&G Detailed Response to RFI items



Attachment E – Site Auditors Letter