



## STATEMENT OF ENVIRONMENTAL EFFECTS

**40 Lot Industrial Subdivision and 1 lot for  
stormwater infrastructure at 158-164 Old  
Bathurst Road, Emu Plains**

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at 158-164 Old Bathurst Road, Emu Plains

## Prepared for

Acor Consultants on behalf of Penrith City Council

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## Executive Summary

This Statement of Environmental Effects (**SEE**) accompanies a Development Application (**DA**) for the subdivision of the land at 158-164 Old Bathurst Road, Emu Plains (the **site**) (**Figure 1**) to create 40 industrial lots, 1 lot for stormwater infrastructure together with associated site works, remediation, roads and street landscaping. Penrith City Council (**Council**) has acquired an interest in the land and is the applicant for the purposes of the DA. GLN Planning has been engaged by Acor Consulting to prepare this SEE on behalf of Council.

The site is located on the corner of Old Bathurst Road and David Road toward the eastern end of the Emu Plains industrial area on the southern side of Old Bathurst Road. It is adjacent to the railway line, commuter rail carpark under construction by Transport for NSW (**TfNSW**) and in close proximity to the Emu Plains Rail Station, which can be accessed by a pedestrian bridge over Old Bathurst Road. Industrial land uses are located to the south and west. The Amber Laurel Correctional Centre is located opposite the site on Old Bathurst Road.

The land has a total area of approximately 16.4ha and was previously occupied by Rocla Pipes Pty Ltd for production and storage of precast concrete drainage products. The vast majority of the site is clear of vegetation and contains structures and storage areas associated with the former use. A separate DA has been prepared for the demolition of the remaining structures. There are existing trees planted along the Old Bathurst Road (pre – 1994) and David Road frontages as well as around an existing pond in the south west corner of the site (pre-2005). Many of the trees along David Road are in poor condition as a result of surplus mounds from previous site levelling. **Figure 1** shows the location of the site and adjoining land uses.



Source: SIX Maps 2021

Figure 1 Aerial image of land at 158-164 Old Bathurst Road, Emu Plains (the site)

The site is zoned IN1 General Industrial under *Penrith Local Environmental Plan 2010* (**PLEP**), which applies two minimum lot size controls over different parts of the site. The portion of the site that fronts Old Bathurst Road has a minimum lot size control of 6,000m<sup>2</sup>, whilst a 2,000m<sup>2</sup> minimum lot size control applies to the balance of the land. In accordance with cl. 2.6 of the PLEP, subdivision is permitted with consent.



A total of 6 lots are proposed adjoining Old Bathurst Road, which range in area between 6,000m<sup>2</sup> and 6,707m<sup>2</sup>. These lots align with the 6,000m<sup>2</sup> minimum lot size control and will be accessed by the internal road system. The balance of the industrial lots range between 2,000m<sup>2</sup> and 4,006m<sup>2</sup> in area. All lots will be accessed via an internal road network via David Road with a left in, left out access off Old Bathurst Road.

The proposal includes subdivision of the site to create 40 lots for future industrial uses and one lot for stormwater infrastructure to treat stormwater by utilising and extending the existing pond.

To address drainage and flooding, the land will be filled as part of the subdivision works. The subdivision works will include earthworks, road construction, connection to services as well as streetscape landscaping.

The lot for stormwater infrastructure in the south-western corner of the site has an area of 15,033m<sup>2</sup> to accommodate the required stormwater infrastructure.

The NSW Hydroline Spatial Data mapping shows a first order stream traversing the north-eastern corner of the site. This is a shallow swale that terminates at a drainage pit on Old Bathurst Road. Minor earthworks will be required to this swale as part of the drainage strategy and to drain the commuter car park. As the proposed development includes works within 40m of a first order stream, the DA will require referral to NSW Office of Water as integrated development under s.4.46 of the *Environmental Planning and Assessment Act 1979*. The referral will seek General Terms of Approval for a controlled activity permit (**EP&A Act**) of the *Water Management Act 2000*.

As Old Bathurst Road is not a 'classified road', replacing the single multi direction site access point with a simplified left in and left out intersection does not trigger integrated development provisions for approval under the *Roads Act 1993*. However, the DA will require referral to Transport for NSW as it meets the threshold for "traffic generating development" for industrial development under the *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

The proposed development is listed as 'regionally significant development' in Clause 2.19 and Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*, as the Council is the applicant and the cost of works exceeds \$5M. Section 4.7(2) of the EP&A Act specifies the functions of a regional planning panel to determine the application.

This SEE has demonstrated that the proposal complies with the requirements of the PLEP 2010 and Penrith Development Control Plan 2014 (**DCP**) as well as the relevant State Environmental Planning Policies (**SEPPs**) and Council policies. This SEE concludes that the proposal is an accepted form of development which is consistent with the anticipated development of the land, without having any adverse impact upon the environment and surrounding locality.



# 1 Introduction

## 1.1 Background

This SEE supports a DA made to Council for the subdivision of the site at 158-164 Old Bathurst Road, Emu Plains to create 40 industrial lots, 1 lot for stormwater infrastructure as well as associated site works, remediation, roads, and street landscaping. The subdivision and associated works will be carried out in a single stage including:

- Site remediation and Earthworks to fill the majority of the land to drain to existing low points,
- Reconstruction of stormwater infrastructure where required to implement Council's required stormwater treatment and detention,
- Construct roads,
- Street landscaping, and
- Connection to services.

The works proposed have been limited as far as practicable to ensure the retention of high and moderate quality trees (as identified in the Arborist Report by CIVICA) along the road frontages and around the existing stormwater infrastructure wetlands in the south-western corner of the site.

The Applicant acquired the site at 158-164 Old Bathurst Road, Emu Plains during 2021 to remediate and develop for an industrial subdivision to increase employment opportunities in the Penrith Local Government Area. In the preparation of this DA, members of the consultant team have liaised with Council including attending a Visioning Workshop held on 6 October 2021 and a Pre-DA meeting on 18 January 2022, which was supplemented by Council's formal Pre-Lodgement Advice dated 27 January 2022. The matters raised during this consultation have been considered by the consultant team and Applicant in finalising the proposal and documenting this DA. A summary of the items raised by Council and the responses are included at **Appendix A**.

To address the various planning considerations and matters raised by Council, a consultant team has been engaged that has produced specialist plans and reports as shown in **Table 1** below.

Table 1 Supporting Plans and Reports

Supporting Report/Plans	Prepared by	Report Version/Date
Quantity Surveyors Report	Mitchell Brandtman	Issue 1.0 – 7 April 2022
Site Survey	Vince Morgan Surveyors (VMS)	Issue D – 24 March 2022
Plan of Proposed Subdivision	ACOR Consulting Pty Ltd	Revision B – 8 April 2022
Civil Plans & Report	ACOR Consulting Pty Ltd	Revision B – 8 April 2022
Stormwater & WSUD Strategy	ACOR Consulting Pty Ltd	Revision B - 5 April 2022
Summary of Pre-DA Items	GLN Planning	March 2022
Detailed Site Investigation Report	JBS&G	3 March 2021
Remediation Action Plan	JBS&G	3 March 2021





Supporting Report/Plans	Prepared by	Report Version/Date
Geotechnical Investigation	Douglas Partners	April 2022
Biodiversity Assessment Report	Anne Clements & Associates Pty Limited	8 April 2022
Traffic and Parking Assessment	SCT Consulting	6 April 2022
Road Safety Audit	SCT Consulting	31 March 2022
Flood Impact Assessment (Nepean)	Advisian	April 2022
Flood Impact Assessment (Site)	ACOR Consulting	Rev 2 – 7 April 2022
Flood Emergency Response Strategy	Advisian	April 2022
Landscaping Plans	Group GSA	7 April 2022
Arborist Report	CIVICA	7 April 2022
Acoustic Report	Renzo Tonin	Rev. 2 - 4 April 2022
Waste Management Plan	ACOR Consulting Pty Ltd	Rev. 1 – 4 April 2022

## 1.2 Type of Development Application

The proposal constitutes 'development' in accordance with Part 4 of the EP&A Act. The Cost Summary Report prepared by Mitchell Brandtman - Quantity Surveyors details that the cost of works exceeds \$5,000,000. On account Council is the applicant, therefore the DA is regarded as 'regionally significant development' as identified in Clause 2.19 and Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*. Section 4.7(2) of the EP&A Act specifies that the Sydney Western City Planning Panel must assess and determine the DA. Council will engage an independent consultant to assess the application for the Planning Panel.

The DA is not Designated Development. However, the development is Integrated Development under Division 4.8 of the EP&A Act as works will occur within 40m of an identified watercourse, being a shallow swale identified as a first order stream on the NSW Hydroline Spatial Data mapping. The application will need to be referred to the Natural Resources Access Regulator for General Terms of Approval as part of the assessment process.

In addition to the Integrated Development referrals, the DA will also require referral to Transport for NSW as it meets the referral threshold for traffic generating development under Schedule 3 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

## 1.3 Purpose of the Report

This SEE has been structured to highlight the considerations that have resulted in the design of the proposed industrial subdivision for this site. In doing so, the SEE provides a description of the site, its surrounds and a background to the planning framework that has evolved for this area. This helps



to identify the opportunities and constraints to which the proposed development responds, commonly referred to as a site analysis.

The SEE then describes the proposed development and discusses how it addresses the relevant planning provisions of the EP&A Act as amended, and relevant planning controls including State Environmental Planning Policies, Penrith Local Environmental Plan (**PLEP**) 2010 and Penrith Development Control Plan (**DCP**) 2014.

This SEE has been prepared in accordance with Part 3 of the *Environmental Planning and Assessment Regulation 2021* (**EP&A Regulation**) for the purposes of:

- Demonstrating that the environmental impacts of the development have been considered, and
- Outlining steps to be undertaken to protect the environment or to lessen any expected harm to the environment.

This SEE concludes that the proposal is consistent with the type of industrial subdivision anticipated in the area and under the planning controls that apply to the land. Further, the development achieves planning and environmental outcomes including retention of trees, rationalising vehicular entries to ensure no direct individual lot access from David and Old Bathurst Road, and facilitating opportunities for increased pedestrian permeability and amenity created by the construction of the adjoining commuter car park.



## 2 The Site and Surrounding Development

This section of the report identifies the matters that underpin the siting, design and other planning considerations relevant to the development on the land, including:

- the site and its physical context,
- the background to planning considerations that has led to and supports the current DA for the proposed development.

The considerations outlined in this section are summarised into a site analysis to inform and confirm the siting, design and environmental responses required to ensure appropriate development outcomes for the land.

### 2.1 Site Description and Location

The Emu Plains Industrial Precinct (south of Old Bathurst Road) and adjoining non-residential land uses are located in a topographically low lying and relatively flat area over 1 kilometre west of the Nepean River.

The site is legally described as Lot 1 in DP588918 and Lot 2 in DP588919, Nos 158-164 Old Bathurst Road, Emu Plains. It is approximately 16.4ha in area and is located on the south eastern corner of the intersection with frontage to Old Bathurst Road and David Road. The site is relatively flat, with various depressions and mounding established overtime to manage stormwater on the site. The existing site topography is shown in the Site Survey prepared by Vince Morgan Surveyors. The site shares part of its southern boundary with the Main Western Rail Line (T1). Old Bathurst Road is a regional road but not a "classified road" for the purposes on integrated development and *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

The use of the site for the last (approximately) 50 years has been for the manufacture and storage of precast concrete pipes and drainage infrastructure, operated by Rocla Pipes Pty Ltd. This large industrial operation relied on a single-entry exit driveway accessing Old Bathurst Road, with no vehicular access to David Road.

Aerial photographs from the Site Investigation Report prepared by JBS&G confirm that the Rocla operation commenced prior to 1965 and progressively expanded up to its present form with construction of buildings roads and levelled storage areas that occupy 80% of the site. The levelling and filling of the land has resulted in the surplus material being placed in continuous mounds adjacent to David Road and extending into the south west corner where, it is understood, ponds were created to capture stormwater for re-use to suppress dust from activities around the site. See survey plan submitted with the application for site features.

It is noted from the Geotechnical Report prepared by Douglas Partners for this DA that fill was encountered in various locations across the site comprising:

- Crushed rock road base fill to depth ranging between 0.3m and 1.5m.
- Silty clay, gravelly sand, clayey sand, sandy clay, sandy gravel or sand fill to depth ranging between 0.2m and 2.45m. Inclusions of gravel, sand and concrete were encountered within the fill. Full depth was inferred to depth of 0.1m to 1.5m.



- Fill soils were noted to be typically moderately to well compacted, however, at the base of the fill layer (or possibility at the top of natural soils) a 200mm to 600mm thick loose sand or soft clay layer was encountered in some areas.

When encountered, the natural soil was typically stiff silty clay or sandy clay or medium dense clayey sand or sand.

The existing trees on the site comprise of both native and exotic species and were first planted by Rocla along Old Bathurst Road predominantly between 1984 and 1994, and along David Road and the drainage infrastructure in the south-west corner of the site sometime after 1994. The Arborist Report prepared by CIVICA has identified the trees on the site and has determined that they are of variable condition. Of specific note are the trees located on the mounding of material along the David Road frontage, which are identified by CIVICA as being of "low quality and value".

The retention of high and moderate quality trees on the site, as far as is practicable, have been a driving principle for the subdivision. The attached Arborist Report has identified the Tree Protection Zone associated with all trees on the site, which has been reviewed in the context of the proposed works. Based on information prepared by CIVICA, the trees which are able to be retained are highlighted in the Tree Removal Plan prepared by Acor. Penrith LGA is one of many where a lack of trees in new development sites increase the 'heat island effect'. Retention of trees and maximising opportunities for new street trees and other planting will be important to assist in combatting this phenomenon.

A separate DA has been prepared for submission to Council for the demolition of the remaining structures. This is aimed to be submitted in the coming weeks. Investigations by JBS&G undertaken over the site have identified some heavy metals and hydrocarbons in the groundwater, however these results were "not considered to post a significant risk to potential off site receptors".

Asbestos within a distinct fill profile used to construct a ramp in the central portion of the site will be undertaken as part of the Remediation Action Plan (**RAP**) which has also been prepared by JBS&G and is included in this DA.

In addition to the Site Investigations and RAP, JBS&G have also undertaken testing of the quality of the water in the existing stormwater infrastructure ponds at the southwestern corner of the site. The report has detailed that in its current state, the water is not suitable for direct disposal to stormwater due to the presence of elevated concentrations of heavy metals. This does not preclude the use of the water for its intended use.

The site is identified as being partially inundated in the 100 year with further inundation occurring during a PMF flood event. The flooding in the 100 year event is mapped as being concentrated in the south western corner of the site and generally in small pockets across the former concrete product storage areas (see Flood Impact Report prepared by Advisian & Acor).

The grass depression identified on the Hydroline spatial data mapping identifies a minor drainage line from the commuter car park under construction across the north eastern corner of the site into a pit under Old Bathurst Road near the existing driveway entry and exit to the site.

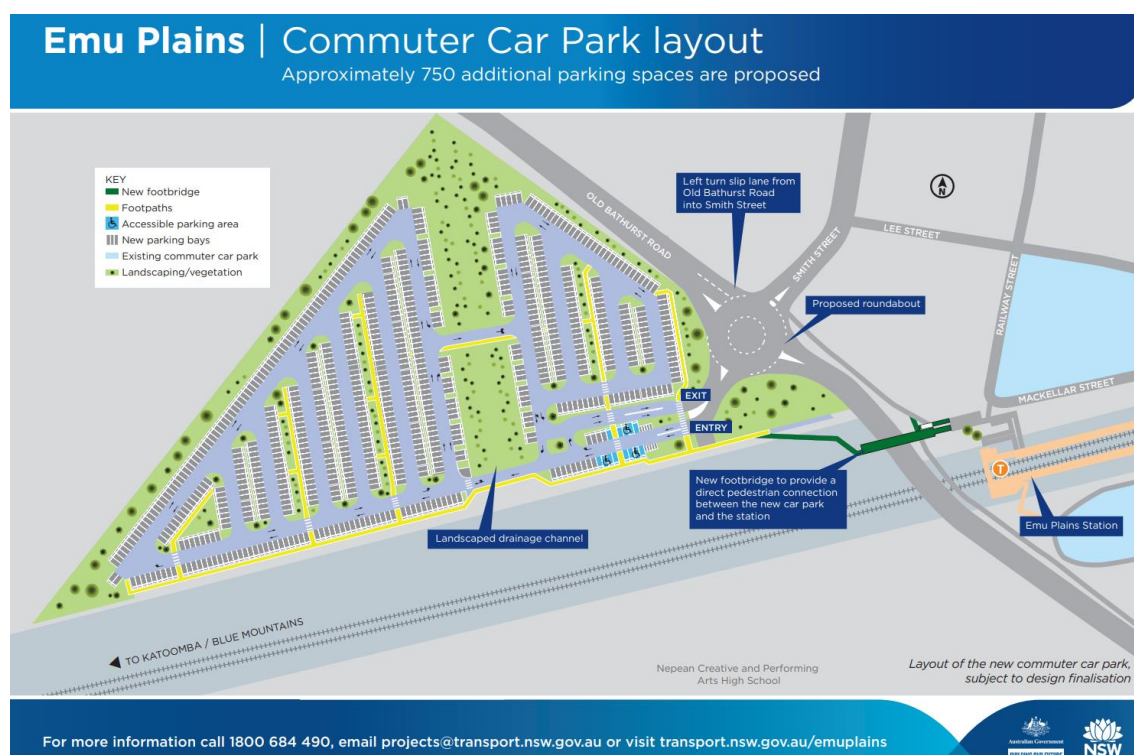
## 2.2 Surrounding Development

Industrial land uses are located to the south and west where filling and drainage works have been a feature of many of these subdivisions prior to development occurring. The land immediately to the south is an example of this where filling has resulted in a higher level than the subject site.

The filling and drainage works that have occurred in this area have resulted in a trunk drainage system which required the reconstruction of Lapstone Creek as an open drain that runs through the industrial precinct north under Old Bathurst Road toward the Nepean River. An enclosed box culvert is located under Somerville Circuit (opposite the south western corner of the site) which can convey water from the majority of the land to Lapstone Creek, with the remainder of the site draining toward the grass lined swale and existing pits under Old Bathurst Road as discussed previously.

The southern boundary backs onto the Main Western Rail Line, while the land to the east is a commuter carpark under construction by Transport for NSW (TfNSW). The commuter car park is an at grade construction providing approximately 740 standard car parking spaces, 10 accessible parking spaces and minimum of 10 motorcycle parking bays (see **Figure 2**). The construction works includes vegetation clearing, earthworks, pavement, access road, walkways and flood mitigation/drainage works.

Access to the carpark for pedestrians will be via an accessible path linking the car park to the Emu Plains station entrance with a steel footbridge over Old Bathurst Road. Vehicular access to the commuter car park will be via a roundabout constructed at the intersection of Old Bathurst Road and Smith Street. This roundabout will have the effect of slowing traffic approaching the site from the east.



Source: [Emu Plains Commuter Car Park | Transport for NSW](#)

Figure 2 Extract of Emu Plains Commuter Car Park layout





The Amber Laurel Correctional Centre is located opposite the site on Old Bathurst Road. Existing roadside pedestrian pathways extend from the station along the northern side of Old Bathurst Road past the Corrections Centre and onward past Russell St. There is no footpath on the southern side of Old Bathurst Road in front of the site, on either side of David Road, or on the adjoining streets in the industrial area.

The site and immediate surrounding locality is shown in **Figure 3**.



Source: Nearmaps 2022, as modified by GLN.

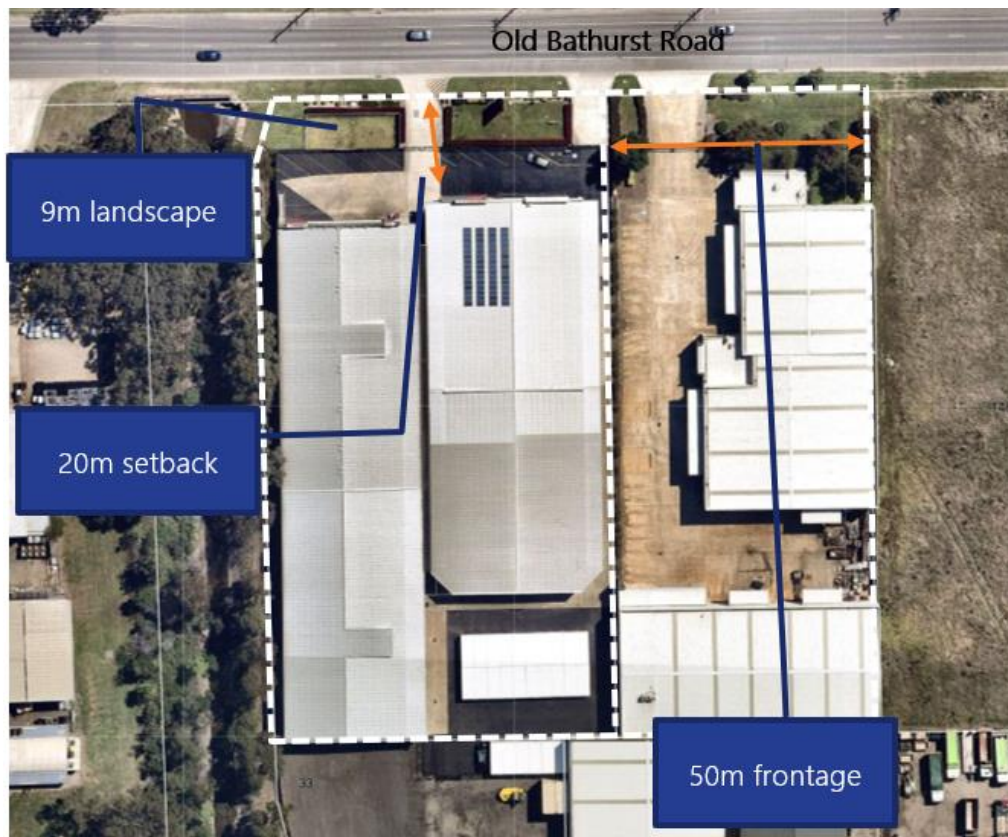
Figure 3 Surrounding locality

The planning controls in this part of Emu Plains (south of Old Bathurst Road) facilitate development consistent with the IN1 General Industrial zone. These controls have resulted in a range of industrial uses as well as a conglomeration of take away food and drink (fast food) premises around the intersection of Russell Street and Old Bathurst Road.

The minimum lot size controls for the Precinct require larger lots of 6,000m<sup>2</sup> along the Old Bathurst Road frontage and 2,000m<sup>2</sup> for lots further south. In part, this control is likely to have limited the number of driveway entries into separate industrial premises from Old Bathurst Road being a regional road. Despite this, it is noted that further west of the site, industrial development gains access directly from Old Bathurst Road.

In locations where there is a 6,000m<sup>2</sup> minimum lot size control and industrial development adjoins Old Bathurst Road, the planning controls require a 15m setback to the buildings. Parking can be provided in the specified setback if a 4m landscape setback from the Old Bathurst Road boundary is provided.

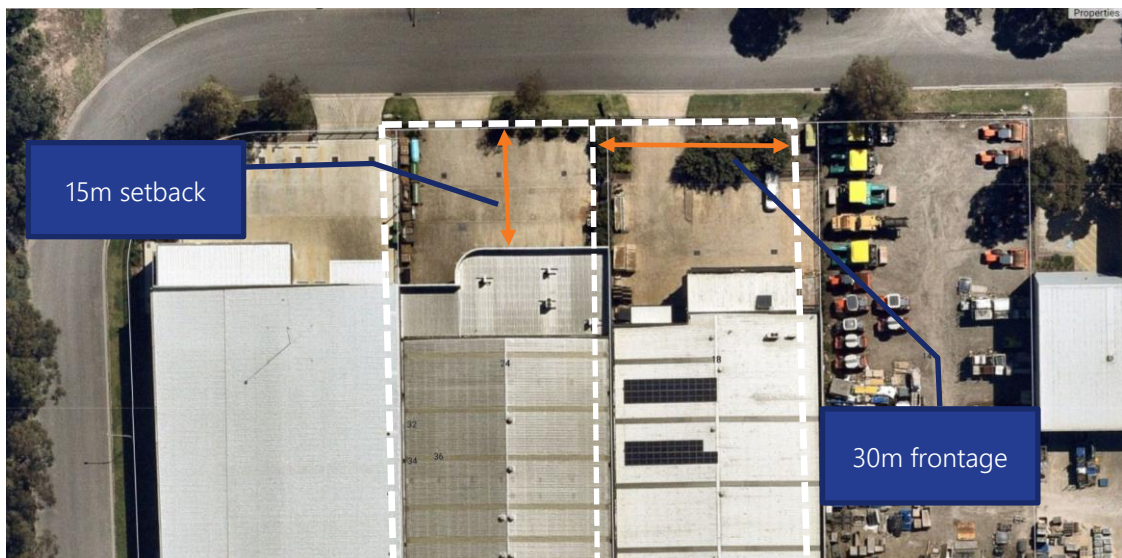
**Figure 4** shows examples of industrial development that address Old Bathurst Road to the west of the site. The industrial development illustrated below occurs in an industrial zone with a 2,000m<sup>2</sup> minimum lot size area which requires a 9m building setback to the primary frontage and 5m to secondary road frontages.



Source: Nearmaps 2021

Figure 4 Aerial of large industrial lots fronting Old Bathurst Road to west of site

**Figure 5** shows some typical development in the 2,000m<sup>2</sup> minimum lot size area.



Source: Nearmaps 2021

Figure 5 Typical 2,000m<sup>2</sup> (approx.) lots fronting Sommerville Circuit



## 2.3 Site Analysis

The previous discussion helps identify the characteristics and features that underpin the site analysis process to inform the design, siting and environmental considerations for the proposed development on the land. The key features identified for the site analysis include:

- The property was originally grazing land with industrial activities by Rocla commencing some 50 years ago. The progressive development of the site with buildings, levelling and filling has created a disturbed platform across some 80% of the site. This includes leaving a large mound running adjacent to David Road and toward ponds that are used as dust suppression and stormwater storage. Contamination investigations have identified small areas that will be remediated in accordance with the attached RAP.
- Despite previous filling, the land is relatively flat and will require further filling to ensure drainage to the existing low points and points of discharge into the trunk drainage system are constructed as part of the industrial subdivision. These existing low points, including the existing stormwater infrastructure in the south west corner of the site and the existing swale in the north easter part of the site provide the opportunity for stormwater treatment and detention prior to discharge from the site.
- The boundaries, and in some areas within the site, have been planted with predominantly native and some exotic trees. There is the opportunity to retain moderate and high significance trees in key areas. Land filling and construction activities will need to be minimised. In areas where the trees are in poor condition and of low significance such as along the mound adjacent to David Road, the mound will be removed to enable new landscaping as part of the future industrial land.
- In areas where the trees are on natural land and in moderate to good condition, such as along Old Bathurst Road, the trees will be retained and the subdivision designed to ensure access from a new internal road network with no direct access from Old Bathurst Road into proposed lots. This will ensure not only the retention of trees along this frontage, but also a more safe and efficient section of Old Bathurst Road.
- The retention of existing trees, new street tree plantings and other landscaping opportunities will be important to address the heat island effect as part of the subdivision, which will then be further supplemented as development occurs, consistent with Council landscaping and setback requirements.
- The main access to the site will be relocated to David Road while a simplified left in left out intersection will be retained to Old Bathurst Road. This will ensure ease of circulation for the number of lots - particularly given the preference to provide access to the large lots of 6,000m<sup>2</sup> and above from an internal road rather than directly to Old Bathurst Road.
- The adjoining commuter car park presents a good opportunity to provide pedestrian connections and "borrow" the amenity associated with the openness and landscaping provided as part of that work. The pedestrian connection back to the station as part of the commuter car park can be extended through the site to provide direct links to David Road and the industrial area beyond for pedestrians.





### 3 Proposed Development

The DA seeks approval for the remediation, earthworks, civil works and subdivision on Lot 1 in DP588918 and Lot 2 in DP588919, Nos 158-164 Old Bathurst Road, Emu Plains. Specifically, the proposed development includes the following components:

- Site preparation works including establishing erosion control, tree removal and land filling
- Subdivision to new intersections, internal roads and 40 lots for future industrial development and 1 lot for stormwater infrastructure, and
- Street planting and other site landscaping and management.

Plans detailing the site preparation and civil subdivision works are included in the plans prepared by Acor. Additional plans prepared by Group GSA show the street tree planting and other landscape outcomes for the site. All these plans are submitted with the DA for the site.

#### 3.1 Site Preparation Works

Site preparation works will follow the demolition of the site, which is subject of a separate application. Despite demolition being undertaken under separate DA, this proposal is supported by a Waste Management Plan to address waste generated during subdivision works.

Works associated with site preparation will include remediation in accordance with the attached RAP and installation of the erosion management controls including basins required for stormwater management and tree removal as required. See the Stormwater Management Strategy and Water Sensitive Urban Design Reports for sizing of basins as well as the Civil Engineering Plans for details of erosion and Sediment control and stormwater design.

As outlined in the Arborist Report prepared by CIVICA, tree barriers will be installed to ensure no works extend into the tree protection zones, where trees are to be retained and any proximate trees to works will have individual tree protection measures. Trees to be removed are shown on the tree removal plan by Acor.

As noted earlier, bulk earthworks are required to raise parts of the site surface to facilitate drainage to the lower parts on the site adjacent to Old Bathurst Road and in the south west corner which discharge into structures under the road into the adjoining trunk drainage system. The plans prepared by Acor show that the site will require a net import of fill of approximately 70,000m<sup>3</sup> to deliver the final surface. These final levels will further raise the existing site where the industrial subdivision will occur above the 1%AEP flood level, confirming that each lot can achieve a finished floor level of RL24.4m AHD consistent with Council's freeboard requirements and as discussed in the stormwater and flooding report also prepared by Acor.

Filling works will be restricted along the Old Bathurst Road frontage, where it is proposed to retain trees of moderate to high significance.

The earthworks will also raise the site levels to a level consistent with the predominant height of the commuter car park adjacent to the site creating the opportunity to compliment and benefit from the landscape tree planting along this boundary by TfNSW (See **Figure 2**).



## 3.2 Industrial Subdivision

The proposed development includes the construction of new intersections, internal roads and creation of 40 industrial lots for future development consistent with the zoning and one lot designated for stormwater drainage infrastructure.

### New Intersections

A Traffic Impact Assessment (**TIA**) was prepared by SCT Consulting submitted with the DA. The proposal includes two new intersections to access an internal road system and the proposed lots, which will not have direct access to the adjoining Old Bathurst Road or David Road. The new intersections are:

- A new western access point on David Road over 100m from its intersection with David Road. This intersection will permit all directional movements into and out of the site.
- The conversion of the existing access on Old Bathurst Road (currently all directional movements) to a left-in/left-out access with a deceleration lane (70 m) and an acceleration lane (150 m) to be provided to ensure there is enough distance for heavy vehicles to diverge and merge with existing traffic on Old Bathurst Road. The design of the access will preclude any right turn movements in and out of the site. The TIA confirms the proposal meets the sight distance requirements from the roundabout being constructed at Smith Street/Old Bathurst Road/commuter car park entrance and the proposed intersection into the site as well as other items raised in the Road Safety Traffic Audit prepared by BTE Consulting.

In addition to the intersections above, the TIA noted that the intersections of both Old Bathurst Road/Russell Street and Old Bathurst Road/David Road are forecast to operate over capacity during the peak hours assessed in the future year of 2033. This intersection is proposed to be upgraded to as signalised intersection by Council which we understand will be funded using Section 7.12 Local Development Contributions.

In regard to the intersection of Old Bathurst Road/David Road, a signal is warranted given it would meet the traffic volume criteria and would also improve pedestrian/cyclist safety, indicating better operation performance.

### Internal Roads

The internal street network contains a proposed loop road, two access roads that connect the loop road with David Road and Old Bathurst Road and a north-south connection to improve the permeability and flexibility of the internal access.

The internal road network has been designed with the following principles, that has ultimately informed the block layout of the subdivision:

- Ensure that no lots have direct access of Old Bathurst Road or David Road,
- Provide for two entry points into the estate, off Old Bathurst Road and David Road,
- Using a road to define the boundary between the large industrial lots and standard industrial lots,



- Maximise the exposure and pedestrian permeability between the industrial estate and the TfNSW commuter carpark by providing a road along this interface rather than having lots turn their back onto this boundary, and
- Provide an internal road network that will provide for logical and efficient lot configuration that is compliant with Council's controls.

The proposal will deliver an internal road network that complies with Council standard industrial road design. The road reserve will include a 20.6m reserve with a 13m carriageway and 3.8m verge on each side. A footpath (essential and non-essential) is nominated on each side of the road at 1.5m wide, providing area between the footpath and the carriageway for street tree planting. Deletion of the non-essential footpath will give greater opportunity for the growth of larger canopy trees.

### Subdivision

Each of the proposed lots will be connected to reticulated power, water and sewer.

The size, orientation and configuration of the lots within the subdivision has been considered in the context of the existing controls, surrounding development and site features to deliver an efficient and logical layout. The relevant setbacks to Old Bathurst Road, the train line as well as primary and secondary road frontages as detailed in the DCP 2014 have all been considered and shown on the preliminary site layout plan (see **Figure 6**). All lots are accessed via an internal road network and can be divided into two categories; large industrial lots backing onto Old Bathurst Road, and standard industrial lots on the remainder of the site.

The large industrial lots backing onto Old Bathurst Road include proposed Lots 36 to 41. The size of these lots have been dictated by the minimum lot size control under the PLEP 2010. These lots vary in area between 6,707m<sup>2</sup> (Lot 41) and 6,001m<sup>2</sup> (Lot 36).

All lots are afforded significant area for the establishment of a future industrial building. A 15m building setback to Old Bathurst Road is assumed consistent with the DCP which generally aligns with the tree retention zone along this road. The internal road network will be the primary frontage for these lots. Each lot is approximately 80m deep and all except Lot 36 (which is located on the corner) has a width of at least 60m at the building line. Lot 41 is provided additional site area above 6,000m<sup>2</sup>, as the accommodates a stormwater detention basin and the mapped first order stream.

Within the remainder of the site, all lots have an area equal to or greater than 2,000m<sup>2</sup>, the largest of which is Lot 14 at 4,006m<sup>2</sup>. Larger lots sizes correspond with those requiring a larger setback (to the rail line) or where the site is irregular or in a corner location.

Lot 33 has an area that exceeds the 2,000m<sup>2</sup> minimum lot size by 60% but is an irregular corner shaped site near the site entry that may allow for an unconventional building envelope for a future industrial building or non-industrial uses that are permissible in the IN1 General Industrial zone, such as hardware and building supplies, plant nurseries and takeaway food and drink premises.

Each allotment is proposed to drain to the internal street network or inter-allotment drainage that will ultimately connect to the stormwater detention and treatment infrastructure at the existing low points prior to discharge from the site.



Source: Acor 2022

Figure 6 Proposed subdivision plan

### 3.3 Street and other site landscaping

Street landscaping and other landscaping to the public domain areas are set out in the Landscape Plans by Group GSA.

Street trees are important for the amenity of the area and to combat the heat island effect. The tree species have been chosen in line with Council's requirements and have been located 10m apart to maximise the canopy coverage. The siting of the trees have also considered the potential location of driveways, to minimise conflict with future industrial uses and buildings.



## 4 Environmental Assessment

This section of the report provides an overview of the proposed application against the planning framework applicable to the site, including:

- Threatened Species and Biodiversity Impacts (section 1.7 of the EP&A Act)
- Integrated development matters (section 4.46 of the EP&A Act).
- Matters for consideration relating to DAs (section 4.15 of the EP&A Act)

### 4.1 Threatened Species & Biodiversity Impacts

The EP&A Act contains provision designed to ensure threatened species legislation as well as any approvals required under other legislation (known as 'Integrated development') are considered as part of a single development assessment process. The provision as they apply to the proposed development are discussed below.

#### 4.1.1 Biodiversity Impacts

Section 1.7 of the EP&A Act requires consideration as to whether a proposed development will have a significant effect on threatened species, populations or ecological communities relating to terrestrial and/or aquatic environments as required under Part 7 of the *Biodiversity Conservation Act 2016* (BC Act), Part 7A of the *Fisheries Management Act 1994* (FM Act) or matters of national environmental significance under the Commonwealth *Environmental Protection Biodiversity Conservation Act 1999* (EPBC Act).

#### Biodiversity Conservation Act 2016

In accordance with the BC Act, consideration as to whether the proposal is likely to significantly affect threatened species or ecological communities, or their habitats is required in accordance with the test outlined in section 7.3 of Part 7 of the BC Act. The BC Act establishes a framework for assessment and offsetting of development impacts as well as investment in biodiversity conservation, specifically:

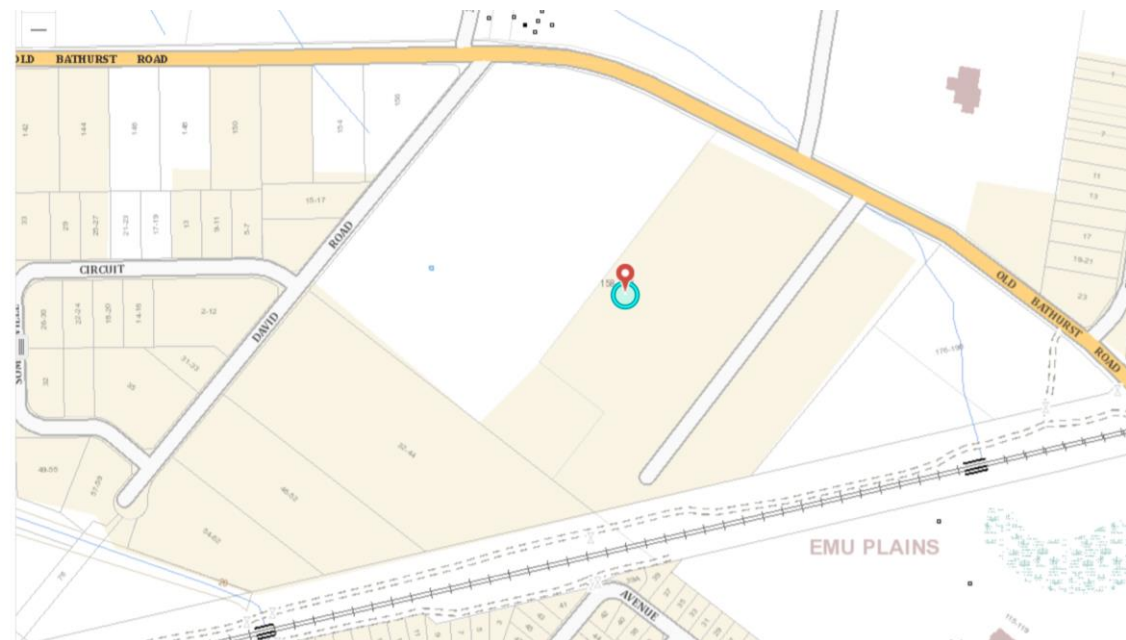
- The Biodiversity Offsets Scheme (**BOS**), pursuant to Part 6 of the BC Act. The BOS is a framework to avoid, minimise and offset impacts on biodiversity from development and clearing, and to ensure land that is used to offset impacts is secured in-perpetuity.
- The Biodiversity Assessment Method (**BAM**) established pursuant to Section 6.7 of the BC Act. The purpose of the BAM is to assess certain impacts on threatened species and Threatened Ecological Communities, and their habitats, and the impact on biodiversity values, where required under the BC Act.
- Section 7.3 sets the test for determining whether development will be likely to significantly affect threatened species or ecological communities or their habitats. In this regard, no physical works are proposed in the area of non-certified land that would impact upon any threatened species or endangered ecological communities, or their habitats.
- Where development is deemed to have a significant affect under Section 7.3, Section 7.7 sets the requirement to prepare a Biodiversity Development Assessment Report (**BDAR**).



Part 7 of the *Biodiversity Conservation Regulation 2017* establishes the thresholds for the BOS as follows:

- Clause 7.1(b) - Development proposing to clear native vegetation identified on the Biodiversity Values Map. The vegetation on the site is not identified on the Biodiversity Values Map (see **Figure 10**).
- Clause 7.2 - Establishes thresholds for clearing based on the prescribed minimum lot size for subdivision set in an Environmental Planning Instrument (i.e. PLEP). In this regard, based on the minimum lot size for subdivision that applies to the site of 2,000m<sup>2</sup> & 6,000m<sup>2</sup>, the threshold for vegetation clearing is 0.25ha.

Although the proposal protects and enhances the highest quality and most connected vegetation on the site, the development will require the clearing of 2.25ha of native vegetation to achieve adequate stormwater infrastructure and therefore triggers the BOS.



Source: Biodiversity Values Map and Threshold Tool

Figure 7 Biodiversity Values Map

The above map was used to inform preliminary site investigations during acquisition, however it is understood that part of the site has recently been mapped on the Biodiversity Values Map (BVM) as important habitat for the threatened Swift Parrot. The purple shading (see **Figure 8**) aligns with an area of retained vegetation adjacent to the hydroline (grass lined swale in the north east corner of the site) as well as the commuter car park currently under construction and substantively cleared.





Source: Biodiversity Values Map and Threshold Tool

Figure 8 Updated Biodiversity Values Map

As noted previously there has been formal planting of native trees along the boundaries to screen the previous Rocla operation as well as around the pond in the south west corner.

Anne Clements and Associates has been subsequently engaged to undertake an ecological assessment of site and a Biodiversity Development Assessment Report (**BDAR**) to address the impact of the removal of native vegetation (including area identified as potential Swift Parrot habitat) that is essential to obtaining suitable grades and drainage on the site.

As demonstrated throughout this SEE, a primary objective of the proposal is to limit the amount of vegetation removal as much as practicable. The extent of works along the site boundaries has suitably avoided impacting existing trees and vegetation of value. In the context of this approach the BDAR has found that the vegetation in is of low conservation value and despite being mapped as an Important Area for the Swift Parrot, the majority of this land potential habitat has been cleared by the adjoining development. As such, the report has found that no Biodiversity Offset ecosystem credits not species required are required for the clearing of the vegetation on the site.

In terms of the environmental qualities of the site, the BDAR has found the proposal provides a positive outcome by retaining as many native trees on site as practicable, providing supplementary planting using local provenance native trees/shrubs/ground cover as well as providing habitat for native flora and fauna species.



### **Fisheries Management Act 1994**

The Fisheries Management Act 1994 (FM Act) contains several provisions for the protection of fish habitat and threatened species and aims 'to conserve, development and share the fishery resources of the State for the benefit of present and future generations'. The proposed development does not impact any suitable habitat for threatened marine or aquatic species, and therefore no further assessment is required.

### **Commonwealth Environment Protection Biodiversity Conservation Act 1999**

The BDAR has outlined that there are a number of threatened species whose occurrence can be predicted by vegetation and/or landscape features. Although a number of species (both Flora and Fauna) are identified as candidate species associated with the presence of Cumberland River Flat Forest – the BDAR has concluded that none were recorded onsite or are expected and therefore no potential serious or irreversible impacts on threatened species are generated.

## **4.2 Integrated Development**

Sections 4.46 and 4.47 of the EP&A Act provide the opportunity for a DA to be lodged as 'integrated development' where the proposed development on the land would trigger an approval under other environmental or related legislation.

**2** below provides commentary on whether any part of the proposed development triggers a need for Council to obtain GTA's from other approval bodies.

**Table 2 Integrated Development Review**

Legislation	Comment	GTAs
National Parks and Wildlife Act 1974	<p>A basic AHIMS Search was undertaken on 22 December 2021. No known items or sites of indigenous archaeological significance have been identified with 200m of the site.</p> <p>After accessing the AHIMS search the applicant became aware that Aboriginal Heritage items were discovered on the adjoining commuter car park site during field surveys as part of the Aboriginal Cultural Heritage Assessment undertaken for the project.</p> <p>A review of historic aerial photographs confirm that the adjoining commuter car park land has not been developed except for possible early agricultural activities (grazing land). This is different for the subject site where the progressive development of the land where stripping of topsoil, levelling, construction of industrial buildings and filling have substantially disturbed and modified the surface on which the proposed subdivision is located that would have destroyed the layers in which any items of aboriginal cultural heritage may be found.</p> <p>Despite the above, best practice would still provide for a condition attached to any consent granted to implement an unexpected finds protocol to be implemented during works.</p>	No





Legislation	Comment	GTAs
Protection of the Environment Operations Act 1997	The implementation of appropriate environmental protection works will ensure that no licence will be required.	No
Rural Fires Act 1997	The site is not mapped as a bushfire hazard area.	No
Water Management Act 2000	A Controlled Activity Approval is required to be obtained for any activity being situated within 40 metres from the top of a riverbank in accordance with section 91(2) of the <i>Water Management Act 2000</i> .  The proposal includes earthworks within 40m of a mapped first order stream. The application will require referral to the Natural Resource Access Regulator for General Terms of Approval,	Yes
Fisheries Management Act 1994	No works proposed as part of this Application will harm defined marine vegetation or impede the movement or development of marine life within the Bonds Creek tributary. Therefore, no integrated approval is required under the <i>Fisheries Management Act 1994</i> .	No
Heritage Act 1977	No works are proposed that are referred to under section 57 of the <i>Heritage Act 1977</i> . Therefore, no integrated approval is required to address this legislation.	No
Mine Subsidence Compensation Act 1961	The land is not within a mine subsidence district.	No
Petroleum (onshore) Act 1991	No production lease is being sought.	No
Mining Act 1992	No mining lease is being sought.	No
Roads Act 1993	Old Bathurst Road is a non classified Regional Road under the <i>Roads Act 1993</i> therefore no approved under this act is required.	No

## 4.3 Environmental Planning Instruments

### 4.3.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (SEPP Biodiversity and Conservation) represents the consolidation of several former SEPPs including the *SEPP Vegetation in Non-Rural Areas*, and *Sydney Regional Environmental Plan no. 20 Hawkesbury-Nepean River*, which apply to the site.

Chapter 2 of the SEPP Biodiversity and Conservation applies to the clearing of vegetation in non-urban areas, which includes the Penrith LGA. Approval of an application from a Native Vegetation Panel for the clearing of vegetation under this policy is not sought and cannot be granted on account in accordance with cl.2.14:

*"Approval may only be granted under this Part if the land is being cleared for the purpose specified in the application for approval and –*



- (a) *The land can be used for the purpose without –*  
(i) *Development consent, other than a complying development certificate, or...*

The proposal for which development consent is sought under this application is for subdivision, which requires development consent. Therefore, in accordance with above, Chapter 2 of the SEPP Biodiversity and Conservation does not apply in this instance. Despite this, the proposal does include clearing of vegetation and is accompanied by a BDAR, which details the clearance of 2.25ha of native vegetation, which exceeds the relevant Biodiversity Offset Scheme threshold of 0.25ha for the site.

The site is within the catchment draining to the Hawkesbury Nepean River system and as such the provisions of Chapter 9 of the SEPP Biodiversity and Conservation applies. The broad aim of the Policy is to ensure the impact of urban development on the Hawkesbury Nepean River is minimised by considering catchment management, water quality and quantity, and protection and management of environmentally sensitive areas, flora and fauna and wetland habitats.

The proposed development is considered to have a negligible impact on the Hawkesbury Nepean River system. The recommendations in the Civil Engineering plans attached to this proposal demonstrate stormwater water quality measures that preserve the condition of the greater system. These measures include Erosion and Sediment Control Plans that are intended to be a minimum treatment only as the contractor will be required to modify and stage the erosion and sedimentation control measures to suit the construction program, sequencing, and techniques. The works will be closely monitored during the activity period to ensure that all mitigation measures identified in the Erosion and Sediment Control Plan have been installed correctly and are working effectively throughout the construction of the project.

Furthermore, Chapter 9 of the SEPP Biodiversity and Conservation outlines that remediation of contaminated land is work requiring consent. As demonstrated in Section 4.3.2 of this SEE, the RAP satisfies the requirements under Chapter 4 of the *State Environmental Planning Policy (Resilience and Hazards) 2021* for the remediation of land.

No further consideration of this SEPP is required as part of this application.

#### **4.3.2 State Environmental Planning Policy (Resilience and Hazards) 2021**

Chapter 4 of the *State Environmental Planning Policy (Resilience and Hazards) 2021* (SEPP Resilience and Hazards) applies to remediation of land. JBS&G were commissioned by the applicant to prepare a Detailed Site Investigation for the site to investigate the likelihood of ground contamination on the site from current and previous land use. The investigation consisted of a review of site history, a site inspection, test pit investigation, soil sampling and laboratory analysis. Subsequent investigations were also undertaken by JBS&G to review the water quality of the existing site.

Soil sampling was carried out across the site and laboratory test results which satisfied the assessment criteria adopted for proposed future industrial land use, with subsequent testing being undertaken for the land proposed for the stormwater infrastructure lot to determine the suitability for use of this location as open space. The site is considered suitable for industrial development subject to remediation proposed under a RAP also attached to this DA. The proposed use of the constructed stormwater infrastructure lot for open space was considered suitable – however water currently within the stormwater ponds would require treatment prior to discharge to the existing stormwater network.



Subject to the remediation proposed under the RAP, the site can be made suitable for the proposed uses.

An assessment against the relevant provisions contained within Chapter 4 of the SEPP has been undertaken within **Table 3**.

**Table 3. Chapter 4 of the SEPP (Resilience and Hazards) 2021**

Relevant Clause	Assessment/Comment
Clause 4.6 Contamination and remediation to be considered in determining development application	
<p>(1) A consent authority must not consent to the carrying out of any development on land unless:</p> <p>(a) it has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and</p> <p>(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</p>	<p>JBS&amp;G has also been engaged by the Applicant to prepare a Detail Site Investigation which found the presence of total recoverable hydrocarbons (TRH) concentrations in shallow fill soils in some areas and potential of asbestos containing materials (ACM) at one location under a ramp, which present a potentially unacceptable risk to future site users that require further investigation, remediation and/or management for the proposed commercial use.</p> <p>Subsequent investigations reviewed the water quality in the existing stormwater infrastructure and reviewed the potential asbestos in containing materials. Subject to the methods outlined in the RAP, Council can be satisfied that the site will be remediated prior to the completion of the subdivision and future uses are established on the resultant lots.</p>
<p>(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in sub clause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</p>	<p>The relevant reports prepared by JBS&amp;G are attached to this DA.</p>

No further consideration of this SEPP is required as part of this application.

#### 4.3.3 State Environmental Planning Policy (Transport and Infrastructure) 2021

*State Environmental Planning Policy (Transport and Infrastructure) 2021* (SEPP Transport and Infrastructure) contains provisions for development with frontage to a classified road, adjacent to a rail corridor and referrals requirements for traffic generating development.

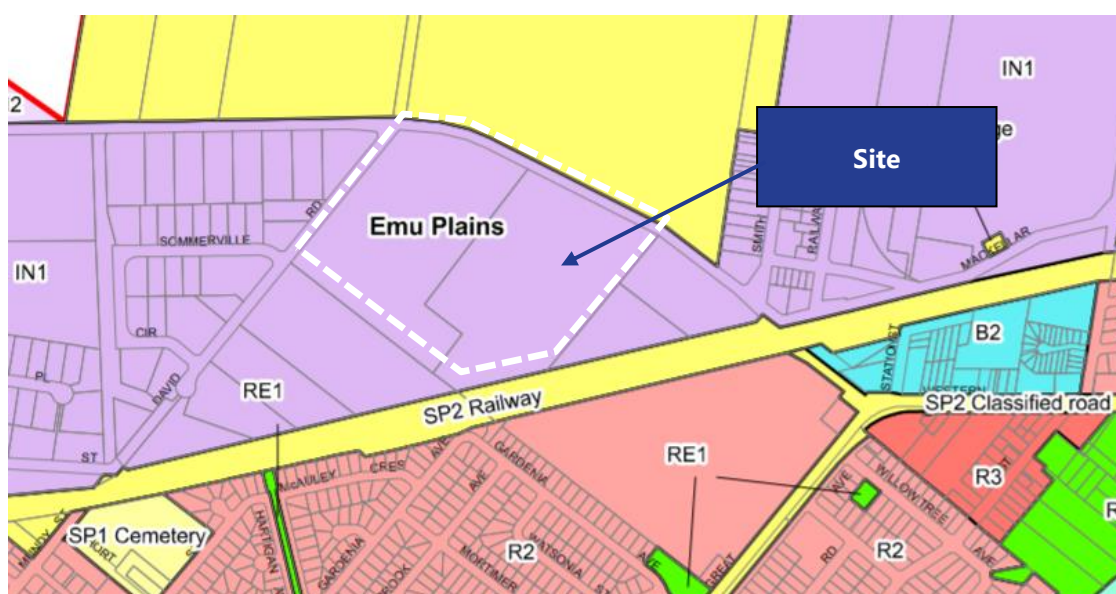
Clause 2.118 of the SEPP Transport and Infrastructure contains provisions for development with frontage to a classified road. It is noted that Old Bathurst Road, whilst listed as a regional road, is not nominated as a classified road, and hence this provision does not apply. Clause 2.98 of the SEPP Transport and Infrastructure requires referral of the application on land adjacent to rail corridors where the application proposes excavation exceeding 2m within 25m (measured horizontally) from the rail corridor, while Clause 2.99 requires the consent authority to consider noise impact of the rail line on the proposed development.

The proposed development does not include any excavation beyond 2m within 25m of the rail corridor. Furthermore, the proposal does not propose a sensitive land use type which requires additional acoustic considerations under the SEPP.

Clause 2.121 of the SEPP Transport and Infrastructure identifies those applications that require referral to TfNSW for comment if listed in Schedule 3, identifying traffic generating development. The proposed development meets the threshold for traffic generating development and therefore will be referred to TfNSW.

#### 4.3.4 Penrith Local Environmental Plan 2010

The PLEP 2010 is the primary environmental planning instrument regulating land uses within the Penrith LGA. The site is zoned IN1 General Industrial (see **Figure 9**). The proposal is for subdivision, which is permissible with consent under Clause 2.6 of PLEP 2010.



Source: PLEP 2010

**Figure 9 Land Use Zoning Map**

Detailed consideration of the relevant clauses in PLEP 2010 is provided in **Table 4** below.

**Table 4 Assessment Against 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	This DA seeks development consent for subdivision of the land.	Yes



Clause	Comment	Comply
Subdivision requires development consent		
Land Use Table		
IN1 General Industrial zone	<p>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.</p> <p>The proposal also includes the delivery of stormwater infrastructure (environmental protection works) which is permitted with consent in the zone.</p>	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 <sup>2</sup> , whilst the balance of the site has a 2,000m <sup>2</sup> 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 Floor space ratio	The proposal does not include any built form	N/A
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>Some minor flooding (to a depth of 0.3m to 0.5m) may occur based on the existing ground levels on the site 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 proposal is 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 .</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



Clause	Comment	Comply
CI 7.5 Protection of scenic character and landscape values.	The site is identified within the Scenic and Landscape Values Map. The proposal includes the preparation of industrial uses that are consistent with the land use zoning for the site. Existing trees on the site are largely retained and therefore the existing interface of the site with the public domain along Old Bathurst Road will be maintained. The scenic character of the locality will be retained and delivered in accordance with the anticipated land use for the site.	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
CI 7.10 Essential Services	The site has access to water, sewer and power infrastructure, which will be continued through the estate.	Yes

## 4.4 Draft Planning Instruments

### 4.4.1 Planning Proposal – Mitigating the Urban Heat Island Effect

An amendment to the Penrith LEP 2010 is proposed to introduce a new local provision to ensure the mitigation of the urban heat island effect is a major consideration for development.

The associated Planning Proposal received Gateway Determination from the Department of Planning and Environment in December 2021 and concluded its exhibition period on Monday 7 March 2022. The proposed controls are not considered certain or imminent as Council is still yet to consider the submissions provided to the package, however assessment is provided against the draft wording as Council may still have consideration to the amendment.

The new provision as it stands will apply to development in all residential, business, industrial, special purpose and recreation zones as well as the RU5 Village and C4 Environmental Living zones. An assessment against the draft clause has been provided in **Table 5**. The draft wording of the instrument entails that

*"development consent is not granted unless the consent authority is not satisfied that planning and design measures have been considered and incorporated into the development to reduce the urban heat island effect including:"*

Table 5 Consideration of Mitigating the Urban Heat Island Effect draft PLEP 2010 Controls

Draft control	Assessment
<i>Measures to retain and extend green infrastructure, including vegetation that contributes to the local tree canopy;</i>	The proposal has identified and retained existing boundary plantings that have moderate to high significance and a stand of trees in the south west corner of the site adjacent to the expanded stormwater quality infrastructure to cater for the needs of the subdivision. The retention of a large number of canopy trees will provide immediate shade. The proposed plantings as part of the



Draft control	Assessment
	subdivision works will include additional planting around the new water quality pond and street tree plantings to extend the green infrastructure across the site to new landscaping outcomes in the commuter car park.
<i>Measures to retain water in the landscape, including permeable surfaces, rainwater harvesting, water reuse and water features;</i>	<p>The proposal has demonstrates compliance with Council's engineering stormwater controls including retaining and expanding the water feature in the south west corner of the site.</p> <p>Following the proposed subdivision, it is noted that buildings will be required to address all subsequent controls including:</p> <ul style="list-style-type: none"> <li>• Retention and harvesting of rainwater,</li> <li>• Siting and orientation to maximise natural ventilation and shading,</li> <li>• Use of building materials to reduce heat impacts, and</li> <li>• Measures to reduce reliance on mechanical ventilation.</li> </ul>
<i>Passive design measures, including siting, orientation, natural ventilation and external shading;</i>	
<i>Use of building, paving and other materials to minimise heat impacts, including green and cool roofs and walls, light-coloured materials and permeable paving; and</i>	
<i>Measures to reduce reliance on mechanical ventilation and cooling systems to conserve energy and minimise heat sources.</i>	

As part of the planning controls package, Penrith DCP 2014 is also proposed to be amended by including a new Chapter: 'C14 Urban Heat Management' to guide development applications. The Draft DCP controls are not a matter for consideration under s.4.15 of the EP&A Act, therefore proposal is not subject to the controls provided by these amendments. It is, however, noted that the proposed street planting controls seek to maximise tree planting opportunities. The proposal provides the opportunity to further assist this by not requiring non essential footpath infrastructure to maximise soil volumes in streets that will enable the maximum canopy to be reached more quickly and provide greater opportunity for larger tree plantings and more shade.

## 4.5 Development Control Plans

The following section discusses the planning controls in the Penrith Development Control Plan 2014 (**DCP**) that are relevant to the assessment of this DA.

### 4.5.1 Penrith Development Control Plan 2014

Penrith DCP 2014 contains the planning, design and environmental objectives and controls to ensure orderly, efficient, and sensitive development occurs in the Penrith LGA.

The proposal does not include any built form and therefore built form controls do not apply to the proposed development.

The controls which are relevant to the assessment of the application in the DCP are summarised in the following table



**Table 6 Assessment of PDCP 2014 Controls**

Control	Requirement	Comment	Compliance
<b>Part C1 Site Planning and Design Principles</b>			
1.1	Site Planning	<p>The site constraints and opportunities have been analysed in Section 2 of this report.</p> <p>The Preliminary Site Layout Plan has also identified existing site features, proposed layout and noted approved and existing surrounding development.</p>	Yes
1.1.2	Key areas with scenic and landscape value	<p>The site is identified in the PLEP as being within an area of scenic landscape value but is not identified as a Gateway Site in the DCP 2014. The Industrial Development section of the DCP identifies the site in Precinct 8.</p> <p>The proposal does not include any built form, however the proposed subdivision will allow for the delivery of industrial uses anticipated within the DCP 2014.</p> <p>The design of the subdivision has accommodated the retention and improvement of the small stands of existing vegetation on the site. Furthermore, the development of the site will include street tree plantings that will introduce green connections across the site that will ultimately improve the scenic landscape.</p> <p>Council did not identify the need for a visual impact assessment to accompany DA.</p>	Yes
1.2.4	Responding to the Site's Topography and Landform	No built form is proposed, however the works to the site have considered the existing topography with proposed earthworks ensuring that suitable levels are achieved to address drainage and flooding.	Yes
<b>C2 Vegetation management</b>			
2.1	Preservation of Trees and Vegetation	<p>The proposal retains significant existing tree plantings in boundary locations where the required earthworks to the site can be minimised and pulled back from root zones. There will be some removal of dead, low and moderate value trees in areas along David Road and adjacent to the east boundary.</p> <p>The tree loss will be offset by new plantings, street trees and landscaping outcomes.</p> <p>The Arborist Report and Ecological Reports attached to this SEE both identify the vegetation types and their current state on the site as well as the legislative pathways required for removal, where essential to deliver the project.</p>	
2.2	Biodiversity Corridors and Areas of Remnant Native Vegetation	The site is not in a non-urban area.	N/A





Control	Requirement	Comment	Compliance
	in Non-Urban Areas		
2.3	Bushfire Management	The site is not identified having a bushfire risk	N/A
<b>C3 Water Management</b>			
3.1	The Water Cycle/Water Conservation	The controls applicable to "proposed industrial land uses" will apply to future built form development.	N/A
3.2	Catchment Management and Water Quality	<p>The proposal is supported by a Stormwater Management and WSUD reports prepared by Acor. The proposal details how stormwater quality and quantity will be managed.</p> <p>Lot 32 will be retained by Council for stormwater management to treat water from the major catchment. An additional basin will be on Lot 41 with easements for access to allow for future maintenance.</p>	Yes
3.3	Watercourses, Wetlands and Riparian Corridors	A first order stream is identified as traversing the eastern corner of the site. The proposal will be referred to the NSW Office of Water to determine whether approval is required under the <i>Water Management Act 2000</i> . Being a first order stream, the Vegetated Riparian Zone is 10m. The proposal has minimised any impact within the VRZ.	Yes
3.5	Flood Planning	Small parts of the site are identified as being below the flood planning level. A flood report prepared by Acor is attached to this DA. The Acor report demonstrates that site works and drainage are provided to ensure buildings/uses are capable of being located above the flood level and there will be no unreasonable impacts that result from the development of the site.	Yes
3.6	Stormwater Management and Drainage	A stormwater management plan has been prepared by Acor and is attached to this development application.	Yes
<b>C5 Waste Management</b>			
5.3.1	Site Management	<p>The proposal does not include any built form. The future DA's for built form and land use will outline how waste will be managed.</p> <p>Construction waste associated with the subdivision will be stored and disposed of in accordance with the attached Waste Management Plan and any contaminated materials will be treated and disposed of in accordance with the RAP.</p>	Yes



Control	Requirement	Comment	Compliance
<b>Part C10 Transport Access and Parking</b>			
10.1	Transport and land use	<p>The proposed development is well situated to take advantage of the train line and adjoining development being undertaken by TfNSW. The proposed layout has allowed for pedestrian permeability with the commuter car park and access to the footbridge to the station.</p> <p>The subdivision design enables all lots to access the internal road system rather than directly gaining individual lot access from the perimeter roads which is not the case in the remainder of this industrial precinct.</p>	Yes
10.2	Traffic Management and Safety	A traffic impact assessment report and road safety audit accompanies the DA.	Yes
10.3	Key transport corridors	The only identified key transport corridor that relates to the development is the Main Western Railway Corridor. Future development must be setback 30m from this corridor. The proposal has accommodated this setback by the provision of a road reserve (20.6m minimum) and the required front setback for future buildings (10m).	Yes
10.4	Roads	<p>The minimum requirements for industrial roads is:</p> <p>Parking Lane provision – 2 x 3m</p> <p>Travel land width (both directions) – 17m</p> <p>Verge width – 2 x 3.8m</p> <p>Total road reserve – 20.6m</p> <p>Concrete path – both sides.</p> <p>The proposal complies with this requirement.</p>	Yes
<b>Part C11 Subdivision</b>			
11.1	General subdivision requirements	Site planning, land management, water management, vegetation management and access have all been applied as previously outlined in this DCP assessment table and discussed throughout this SEE.	Yes
11.4	Industrial subdivision	All proposed lots adjoining Old Bathurst Road have a width greater than 50m (other than Lot 36, which is a corner lot, but has a maximum dimension well in excess of 50m) and therefore complies with the control.	Yes
		All other lots have a width greater than 20m. Where some corner lots have a width less than 20m, a width of at least 20m is provided at the building line.	Yes



Control	Requirement	Comment	Compliance
		No battle axe lots are proposed.	N/A
		Despite only requiring 20% of lots to exceed minimum dimension – all proposed lots exceed the minimum dimension requirements.	Yes
11.4.2	Subdivision – Access Roads	The internal access road has been designed in accordance with the requirements for Industrial Roads under this DCP.	Yes
<b>D4 Industrial Development</b>			
4.1	Key Precincts	The site is located within the Precinct 8 – Emu Plains.	Yes
4.2	Building Height	No built form is proposed	N/A
4.3	Building Setback and Landscape	No built form is proposed – however the subdivision layout has considered the required setbacks that apply to future buildings on the proposed lots. The Site Layout Plan prepared by Acor demonstrates: <ul style="list-style-type: none"> <li>- 15m setback to Old Bathurst Road (Lots 36-41)</li> <li>- 10m setback to the railway (Lot 14)</li> <li>- 9m primary road setbacks</li> <li>- 5m secondary setbacks</li> </ul>	N/A
4.4	Building Design	The proposal does not include construction of any buildings	N/A

## 4.6 Planning Agreements and Development Contributions

There is no Planning Agreement registered on the land.

The proposed development will be required to pay contributions in accordance with Penrith S7.12 Contributions Plan (Amendment 1 – October 2021). It is noted that this plan includes contributions for the signalisation of the Old Bathurst Road and Russell Street intersection as outlined in the TIA.

## 4.7 Likely impacts of the Development

The planning for this part of the Emu Plains Industrial Precinct seeks to facilitate industrial development with lot sizes aimed to, among other things, limit the number of sites with direct access to Old Bathurst Road.

The proposed plan of subdivision provides a better alternative than having individual industrial properties address and access Old Bathurst Road or David Road as is the case in the remainder of the Emu Plains industrial area. Rather, the site access conditions have been rationalised whereby the existing multi directional access to this large site off Old Bathurst Road is converted to only left in/left out to play a secondary role to the new multi directional access on David Road. In doing so, the subdivision design retains key existing tree plantings that provide screening, character and canopy for future development.



The proposed filling and stormwater detention and treatment are essential components to implement the industrial subdivision and address drainage (treatment and detention) and flood requirements.

Earthworks have been primarily limited to the extent of the previous industrial operation, including residual surplus material in the mounds adjacent to David Road.. The earthworks are designed to be as unintrusive as possible to retain existing trees. Notwithstanding these proactive measures, there will be some removal of trees. These are located in previously disturbed areas, which tend to be of lesser value. Anne Clements and Associates has prepared a BDAR to address the removal of the nominated trees.

Acoustic investigations were undertaken by Renzo Tonin that anticipated the potential noise generated from future industrial activities on the resultant lots and modelled what impact this might have on residential development on the opposite side of the trainline. The report outlines that in the context of the existing acoustic environment, the future activity on the site is unlikely to cause any unreasonable impact on surrounding sensitive receivers.

#### **4.8 Suitability of the site**

The site is in walking distance of Emu Plains Train Station and located at the intersection of Old Bathurst Road and David Road. A commuter car park is under construction along the eastern boundary.

Like many other industrial subdivisions and development in the Emu Plains industrial area the site is proposed to be filled to address drainage and convey stormwater into the existing trunk drainage system. That filling will also address the minor flooding of the site in the 1% AEP flood event.

#### **4.9 Submissions**

The DA is required to be notified in accordance with Council's Policy.

#### **4.10 Public Interest**

The proposed development under this DA is in the public interest as it provides for the orderly and economic use of zoned industrial land in a manner which responds to the known planning opportunities and constraints applying to the land. In turn the proposed development will contribute to the public domain through improved street planting, traffic amongst other outcomes as well as provide employment opportunities for the people of Penrith.



## 5 Conclusion

This DA seeks approval for subdivision to create 40 industrial lots and 1 lot for stormwater infrastructure as well as associated site works, roads and landscaping over the land at 158-164 Old Bathurst Road, Emu Plains.

The proposal represents the redevelopment of an existing large industrial site previously used for the manufacture and storage of pipes and other pre-cast concrete stormwater infrastructure. The proposed redevelopment will provide suitable lot sizes that comply with the relevant controls to deliver sites for future industrial uses that will positively contribute to the Penrith LGA's economy.

The land is suitably located in the vicinity of the Emu Plains train station and takes advantage of the adjoining development for a commuter car park. Along with preparing the site for future employment generating activity, the layout has been tailored to rationalise site entries to ensure new lots front internal roads, rather than having direct access to Old Bathurst Road. As far as practicable, the layout also aims to retain the existing high and moderate value tree plantings on the site.. A BDAR has been prepared to assess the impacts of any tree removal associated with the development.

The proposal has been assessed against the relevant requirements of the EP&A Act, PLEP 2010 and Council's DCP and is considered to be an acceptable development that is consistent with the desired character of the area for urban development.

The proposal provides certainty of a desired urban outcome to support the continued development of employment generating uses in the LGA. Based on the information contained in this SEE, the proposal should be granted consent, subject to the appropriate conditions.



## **APPENDIX A: PRE-DA MEETING COMMENTS**

## PRE-DA MEETING RESPONSE

A Pre-DA meeting was held between the Applicant and Penrith City Council on 18 January 2022. The following table includes response to the items raised in the formal Pre-DA meeting minutes dated 27 January 2022.

Ref	Council Comment	Response
<b>A.</b>	<b>Planning</b>	
1.	There are two overarching matters that require further resolution prior to progressing the proposed development. These relate to:	The proposal has been informed by specialist advice addressing the flooding and stormwater context of the site. The proposal includes filling of much of the site to a level that ensures the future buildings will not be subject to unreasonable flood risks. The fill is also required to ensure that pipes are able to achieve sufficient fall to stormwater infrastructure.
1(a)	stormwater management and conveyance (including flooding and overland flows);	
1(b)	and vehicular access to the site, including pedestrian connectivity.	
2.	Resolution of these matters will then inform the detailed layout of the site and will dictate conclusions about filling, intersections, road layouts, and lot locations and shape. This is discussed further below, with more detailed comments in the Engineering and Traffic sections of this letter.	Despite the majority of the site requiring fill to obtain suitable levels and falls, the extent of fill has been pared back where possible to retain trees identified as having a higher ecological value as identified in the attached Arborist Report and BDAR.
3.	It is also understood that previous advice, in emails dated 1 July and 16 November 2021, have been forwarded to staff in Council's Property Unit. The advice contained in those emails is still relevant and should be addressed by the applicant, particularly regarding the need for an overarching stormwater strategy and analysis of options for vehicular and pedestrian access to and within the site.	This information has been coordinated with the civil engineers to ensure where possible trees are retained by minimising the incursion into the root zones of trees along Old Bathurst Road and on the fringe of the stormwater infrastructure lot.
4.	Please ensure that your team of consultants are aware of what the other is proposing, and that the expert reports and drawings are reconciled. This is particularly important when considering ecology / vegetation retention and the stormwater strategy.	The proposal has been designed to ensure that no lots will gain direct access off Bathurst Road. The historical access off Bathurst Road into the site will be utilised for access to an internal road and footpath network. The design of the intersection (as a left in, left out configuration) is justified in the Traffic Impact Assessment. Another intersection into the estate is provided off David Road. Both accesses are designed to support the swept paths of a B-Double.
<b>B.</b>	<b>Flooding and Stormwater</b>	

Ref	Council Comment	Response
5.	The consulting team is encouraged to investigate and propose an overarching strategy to manage stormwater disposal and how the site will be drained. This should include a strategy for water quality treatment (WSUD) in accordance with Council's policies.	The Civil Engineering Design is accompanied by a Water Sensitive Urban Design Report that demonstrates compliance with Council's policies.
6.	The resulting stormwater strategy will then dictate the amount of fill you propose, although it is understood that the proposal no longer includes 5 metres of filling, as well as the resulting levels for the site. It is only after this is resolved that you can progress the proposal to a road and lot layout.	The fill required on the site is well less than 5m. The fill is required to ameliorate flooding impacts and ensure suitable fall is achieved to drainage infrastructure. The road and lot layout have been informed by the drainage and ecological constraints on the site.
7.	At the meeting your team referred to 10Ha of the site being drained to existing infrastructure in the ecological area near David Road. Council's Engineer stated that although this infrastructure may be existing, it may not be adequate for the proposed development. You will therefore need to consider the capacity of any existing infrastructure as part of the overarching stormwater strategy.	The proposed drainage system has been designed around three separate catchments. Approximately 0.44ha will drain to the south west of the site. The proposal includes improvements to the existing stormwater infrastructure to ensure it has capacity to accommodate this catchment.
8.	You should also include a concept stormwater drainage plan for Old Bathurst Road, noting that Council's Engineer has indicated there should be a zero impact on depth and velocity of water to Old Bathurst Road as a result of the proposed development.	The concept drainage plan and report is attached to the DA. Only a small portion of the site bypasses the stormwater detention and is captured by the existing swale in the north eastern corner of the site, which continues under Old Bathurst Road. There is no impact on the velocity of water to Old Bathurst Road as a result of the proposed development.
9.	Regarding WSUD, the preference is for a vegetated solution, such as rain gardens and wetlands. The WSUD strategy may be connected to the title of individual lots in the scenario that each lot will require some form of water conservation. The WSUD Strategy should include maintenance and outline operation requirements. The application is to include MUSIC modelling (*.sqz file).	The relevant reports and modelling files have been submitted as part of the DA. The drainage strategy includes onsite detention systems and the use of wetlands. The proposal has also assumed that the future buildings on each site will provide their own detention.
10.	The proposal must also consider flooding and overland flows, with regard to Clause 5.21 of the Penrith LEP.	Flood levels and an emergency response strategy have been provided in reports and plans attached to this DA.



Ref	Council Comment	Response
11.	The application will require referral to the Department of Industry, Planning and Environment regarding flood evacuation and routes, therefore your application is to address regional flood evacuation.	A Flood Emergency Response Strategy has been prepared by Advisian and accompanies the DA.
<b>C.</b>	<b>Vehicle Site Access: - Old Bathurst Road</b>	
12.	The proposal shows two access points for the site. While this is ultimately a matter for the applicant to decide, staff have raised challenges with the proposed access from Old Bathurst Road. If the applicant pursues a new access from Old Bathurst Road, these issues should be resolved prior to DA lodgement. Failure to do so is likely to result in significant delays in the assessment of the Development Application.	The Applicant has maintained access into the estate from both Old Bathurst Road and David Road. The access off Old Bathurst Road has been provided in the location of the existing site access.
13.	An access from Old Bathurst Road is likely to require a slip lane given the permitted speed along this main road. This may require an uptake of land in front of the adjoining site, owned by Transport for NSW, to accommodate the works. It may be difficult to obtain the necessary agreements / approvals from Transport for NSW for the works and land.	The proposal includes the delivery of a slip lane on Old Bathurst Road. A road safety audit has been undertaken and the items raised addressed in the design of the intersection. The resultant design has ensured that no additional land will need to be dedicated for the accommodation of the slip lane.
14.	Further, the plans show a possible median strip to stop vehicles making a right-hand turn from Old Bathurst Road into the site. Council staff have stated that a median strip may not be an adequate deterrent for trucks and that further works might be needed.	The Road Safety Audit and Traffic Impact Assessment have addressed the proposed risks associated with the intersection treatment .
15.	You will also need to consider and show how the proposed access would impact on future upgrades to Old Bathurst Road in both directions.	Council has not provided any detail on proposed upgrades to Old Bathurst Road.
16.	It is unclear how the proposed intersection will relate to the future commuter car park development carried out by Transport for NSW.	The proposed intersection includes 70m deceleration lane, which commences approximately 150m from the roundabout entrance into the Transport for NSW.
17.	Old Bathurst Road appears to be an unclassified regional road under Council's care and control, although the DA is still likely to be referred to Transport for NSW for comment.	No referral to Transport for NSW is required as outlined within the SEE.

Ref	Council Comment	Response
18.	Old Bathurst Road will require a kerb and gutter treatment for the length of the site's frontage, as well as a footpath, which should be coordinated with any plans to carry out tree planting.	The design of the Old Bathurst Road frontage has included kerb and gutter treatment as well as footpath.
<b>D.</b>	<b>Vehicular Site Access: - David Road</b>	
19.	The location of a site access from David Road is supported and appears to be a logical location for the primary access to the site.	Noted.
20.	This is likely to require the upgrade to a signalised intersection of Old Bathurst Road and David Road to facilitate this.	The proposal includes upgrades to the intersection of Old Bathurst Road and David Road as described in the Traffic Impact Assessment.
<b>E.</b>	<b>Vehicular Site Access: - Internal Roads and Pedestrians</b>	
21	The application should include details about pedestrian connectivity and movement through the site. Although connectivity with the adjoining commuter car park is encouraged, it is acknowledged that it may be difficult to obtain the necessary approvals from Transport for NSW for a connection as the plans for the adjoining site show a landscaped edge which is likely to be fenced off for security.  You should discuss this with TfNSW.	Pedestrian footpaths are provided throughout the subdivision in accordance with Council's DCP. The proposed ground level generally aligns with the Transport for NSW site, which allows for access between the two sites to be facilitated.
<b>F.</b>	<b>Other Matters</b>	
22.	To respond to your query about surveying trees with a trunk diameter of 100mm (as opposed to 200mm which is the basis of what you have currently surveyed) Council's Tree Management Officer has clarified that your consultants should have surveyed every tree that is over 3.5m high. For those trees that are under 3.5m high, you will only need to survey those trees, with a trunk diameter of 100mm at a height of 1.4m, which are proposed to be removed or are likely to be affected by the proposed development.	A comprehensive tree survey has been undertaken by the engaged Arborist. The survey has included all trees that are over 3.5m in height as well as trees below 3.5m that have a trunk diameter of 100mm at 1.4m.

Ref	Council Comment	Response
23.	The proposed stormwater strategy will need to be initially resolved, including how water quality treatment is proposed, as this will impact on vegetation and tree retention. For example, if you decide to use the ecological area in the western part of the site fronting David Road for water retention and treatment, this may impact on levels, works, and vegetation in that area.	The proposed drainage strategy utilises existing infrastructure in the south western portion of the site. Only part of the site is proposed to drain to this infrastructure. An on-site detention basin is also proposed in the north eastern portion of the site. The limit of works and fill has been minimised to ensure areas of higher quality vegetation can be retained.
24.	Consideration should be given to boundary edge treatments and landscaping, in conjunction with the setback requirements at section D of the Penrith DCP. It also makes sense to retain the existing vegetation along the site edges as this will contribute to the requirements for landscaped edges and green visual buffers.	The extent of cut and fill has been restrained, so that trees along Old Bathurst Road, surrounding stormwater infrastructure and the southern boundary can be retained where possible.
25.	The proposal should comply with the minimum lot sizes contained in the LEP and DCP.	No departure from the lot size controls is proposed.
26.	The proposal should demonstrate compliance with section D4 of the DCP, specifically regarding setbacks (see Table D4.1 in section D4) and the scenic quality of the precinct (see Clause 4.2 in D4 and C1). Note that there are specific setback requirements for both Old Bathurst Road, the Western Railway, and for secondary road frontages.	The SEE demonstrates compliance with setback controls.
27.	The subdivision plan should indicate the setback area/s within individual lots that are to be preserved specifically as landscaped setbacks. This will help ensure that separate proposals to develop individual lots in the future for industrial buildings and use, are cognisant of the area of the lot that is to be landscaped. This might also include individual rain gardens should your WSUD strategy include holding and treatment areas on individual lots.  Note that Council's policy requires the development to meet a minimum of 80% of their non-potable demand with harvested rainwater.	The SEE and Site Layout Plan both demonstrate where primary and secondary setbacks are provided. Similarly, the specific setbacks to Old Bathurst Road and the Western Railway have also been shown.  On account each dwelling exceeds the minimum lot size and demonstrates how the setbacks are applied – there is no requirement to provide a building envelope that shows where landscaping areas and any stormwater detention is provided on the resultant lots. This will be a matter for future development applications.
28.	Some of the proposed lots are awkwardly shaped and may need to be reconsidered in terms of how a future building will fit onto the lot, including landscaping, car parking and vehicle movements. These lots are numbered 9, 14, 22, and 34.	The lot layout has been reconsidered to ensure suitable lot width and depth is provided that will support a future industrial building. Further justification is provided in the SEE.

Ref	Council Comment	Response
29.	<p>The application should clarify the intent for future land ownership and asset management for both the internal roads, and the ecological landscaped area, particularly if this area will also be part of the stormwater strategy.</p> <p>Council is unlikely to accept any stormwater and WSUD infrastructure as a future Council asset if the infrastructure is serving private industrial land.</p>	The roads and stormwater infrastructure (including the wetland) will be retained in Council ownership.
30.	The applicant should further investigate whether the development triggers the requirement to obtain approval from the Natural Resources Access Regulator (NRAR) for works near a watercourse. If this applies you should lodge the application as Integrated Development. In addition to the watercourse you reference in the south-western corner of the site, there is another watercourse (creek) located at the front, north-eastern corner of the site (although it is unclear exactly where this watercourse crosses the site).	The proposal triggers referral to the NRAR as the proposal includes works within 40m of a 1 <sup>st</sup> Order Stream. This watercourse is a drainage depression. Further justification is provided in the SEE.
31.	The application should include a Signage Strategy that allows for the major signage identifying the site from road frontages, as well as internal directional signage. This will help ensure that the site signage is dealt with in a more consistent and high quality manner.	No signage is proposed as part of this DA. Any future signage for the estate will be subject of a separate DA.
32.	Please be aware that a contribution pursuant to Section 7.12 of the Act and Council's contribution plan will be applicable.	Noted.
<b>G.</b>	<b>Environmental Management: Contamination (SEPP 55.)</b>	
33.	The application is to address all relevant requirements under State Environmental Planning Policy 55 Remediation of Land (SEPP 55). The application is to demonstrate that the land is suitable for the proposed use by the submission of a Phase 2 Detailed Site Investigation and possibly a Phase 3 Remedial Action Plan (where required by the Detailed Site Investigation). Any reports need to be completed by a suitably qualified person(s) or company and be prepared in accordance with NEPM 2013 and the relevant EPA Guidelines.	A separate DA for demolition and remediation will be submitted to Council. Regardless, a detailed Site Investigation and Remediation Action Plan have been prepared and also accompany this DA.
34.	If investigations find that contamination makes the land unsuitable for the proposed use in its current state and requires remediation, any remediation works should be included in the DA.	A Remediation Action Plan has been prepared and supports this DA, as well as a separate DA for demolition and remediation.

Ref	Council Comment	Response
35	During the meeting, it was discussed that the subdivision will possibly include industrial use with a portion of the land to be open space. When defining the area to be investigated, all land subject to the planning decision must be considered. For example, the open space component of a development proposal will need an investigation into its suitability, as it involves a change of use even if no development is proposed on the land at the time. This is particularly important as the applicant's Pre-DA Report suggests that the ownership structure (whether dedicated to Council or maintained by a lot within the subdivision) is still being considered. Council is not likely to accept ownership of this land if there is any ongoing monitoring requirements recommended relating to contamination.	The area in the south west corner of the site, which will contain the landscaped stormwater infrastructure, will be retained in Council ownership.
36	Noise  An Acoustic Report is required to be submitted as a part of the development application to demonstrate that the development will not have any adverse impact on adjoining premises. This report is to be prepared by a suitably qualified acoustic consultant. The report is to consider the 'Noise Policy for Industry' (October 2017) in terms of assessing the noise impacts associated with the development and set noise goals for the site. This is particularly relevant to the neighbouring residential development to the south eastern part of the site. It is noted that DAs for future uses of individual lots may require more specific Acoustic Reports based on the type of use and whether the noise goals for the subdivision can be achieved.	An acoustic report is being prepared. The report has investigated what impact future industrial activity will have on residential land on the opposite side of the rail line.
37.	Waste Management  A Waste Management Plan is to be provided addressing waste produced during the subdivision phase of the development. The Plan should also address waste quantities, storage locations and removal.	A separate DA for demolition has been submitted to Council. However, Council's waste management pro-forma has been completed to consider waste generated during the construction of the subdivision.
38.	Vegetation Management  Generally, trees greater than 3.5 metres in height or with a trunk diameter exceeding 100mm at 1400mm above ground level are protected under C2 Vegetation Management of the Penrith Development Control Plan 2014.  During the meeting, it was noted that there are numerous trees that have been identified for removal. The Arborist report must include an inventory of individual trees proposed to be removed and those to be retained shall be assessed in accordance with AS 4970 – 2009,	Extensive survey of the existing trees on the site has been undertaken. The Arborist Report identifies trees that are to be removed and where trees are retained what protection measures must be implemented to support their survival.

Ref	Council Comment	Response
	Protection of Trees on development sites. The Arborist report shall be written by an appropriately qualified AQF (Australian Qualification Framework) Level 5 Arborist and must not contradict any environmental assessment undertaken for this site.	
39.	<p>Biodiversity Impacts</p> <p>The applicant advised that there are no areas specifically identified as having biodiversity value or threatened species. However, staff were told that an ecologist has been engaged to examine any significance of the existing vegetation on the site, particularly in the south western corner. Vegetation and fauna deemed to be of ecological significance should be protected and enhanced with a proposed Vegetation Management Plan where relevant.</p>	The proposal is supported by a BDAR, which has been prepared in accordance with the Biodiversity Assessment Method. The assessment has determined that there will be no unreasonable, irreversible damage to existing biodiversity values as a result of the proposal.
40.	<p>General Environmental Health Impacts</p> <p>The environmental impacts associated with the subdivision stage, including but not limited to bulk earthworks, will also need to be addressed, such as water quality, noise, dust, air quality and sediment and erosion control. This can be included in the Statement of Environmental Effects.</p>	Erosion, sediment control and water quality has been addressed as part of the Civil Engineering package. Dust and air quality will need to be addressed as part of any construction management plans provided prior to the commencement of works on the site.
<b>H.</b>	<b>Engineering</b>	
41.	<p>Key Items</p> <p>A stormwater management strategy shall be developed for the site demonstrating how the site will drain in accordance with Council's engineering requirements for subdivisions and developments. It is a requirement that a concept drainage layout along with the fundamental principles of the estate drainage are agreed upon with Council's Engineering Services prior to the lodgement of any development application for the site. An agreed stormwater management strategy will then allow the determination of ultimate site levels upon which an assessment of any filling upon local and regional flood impacts may be undertaken.</p>	A Stormwater Management Strategy has been developed by Acor Consultants and accompanies the DA.
42.	<p>General</p> <p>Council's engineering requirements for subdivisions and developments, including policies and specifications listed herein, can be located on Council's website at the following link:</p>	Noted. The proposal has been designed to comply with these requirements.

Ref	Council Comment	Response
	<a href="https://www.penrithcity.nsw.gov.au/buildingdevelopment/development/engineering-requirements-for-developmentsubdivision">https://www.penrithcity.nsw.gov.au/buildingdevelopment/development/engineering-requirements-for-developmentsubdivision</a>	
43.	All engineering works must be designed and constructed in accordance with Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Council's Engineering Construction Specification for Civil Works.	Noted. The proposal has been designed to comply with these requirements.
44.	A detailed survey of the site, including the road reserve areas of David Road and Old Bathurst Road, and the adjoining surrounds, shall be submitted with the application. The survey shall include all drainage pits and pipe locations, pit invert levels and pipe sizes, along with the location of all public utility services. The locations of all driveways on the opposite sides of the road shall also be shown. All plans for the site shall have levels and details to AHD.	A detailed survey plan has been prepared and accompanies the DA.
45.	Stormwater Stormwater drainage for the site must be in accordance with the following:  Council's Development Control Plan,  Stormwater Drainage Specification for Building Developments policy  Water Sensitive Urban Design Policy and Technical Guidelines.	The SEE and Stormwater Report demonstrate compliance with Council's DCP and technical engineering guidelines and policies.
46.	A stormwater management strategy for the estate shall be agreed upon with Council's Engineering Services Department prior to the lodgement of any development application.	Acor Consulting liaised with Council in the design of the stormwater management strategy.
47.	Any stormwater drainage system shall be designed to accommodate a 1 in 20 year ARI local storm event. The stormwater drainage strategy shall consider tail water levels at any discharge point.	The design of the proposed strategy has considered Council's requirements.
48.	A stormwater concept plan, accompanied by a supporting report and calculations, shall be submitted with the application.	The stormwater concept plan and report has been prepared by Acor Consulting and accompanies the DA.
49.	A capacity assessment shall be undertaken of the existing drainage system within David Road to ensure that downstream stormwater systems have adequate capacity to accommodate stormwater flows generated from the development. This may require the provision of on-site detention to reduce stormwater flows or upgrade of stormwater infrastructure to increase capacity.	An assessment of existing stormwater system capacity has been undertaken by Acor and is documented in their report.



Ref	Council Comment	Response
50.	Drainage plans from the adjoining industrial subdivision, approved under DA05/0375, indicate upstream contributing catchments of 10.4 ha and 4.4 ha (combined 14.8 ha) were accommodated within the drainage design. However, the combined size of the development lots is approximately 16.3 ha (excludes road reserve areas). External catchment plans were not available to verify any contributing catchments.	These figures have been considered by Acor in the design of the stormwater system.
51.	As the development will be required to provide kerb and gutter along the full frontage of Old Bathurst Road, formal drainage of the verge area and road area along Old Bathurst Road is also required.	Drainage of the verge and road area along Old Bathurst Road has been accommodated into the design.
52.	Pending the location of any additional drainage outlets, the development may require an easement to drain water over downstream properties (e.g. stub easement for any new drainage outlets into Emu Plains Correctional Centre).  Evidence of owner's consent shall be provided with the application for the provision of the easement. The easement to drain water must be registered prior to the issue of an operational consent. Drainage easement widths shall be in accordance with Stormwater Drainage Specification for Building Developments policy.	Stormwater is detained on-site before being discharged. No increase in the impact on the Emu Plains Correction Centre will result from the proposal.
53.	The concept stormwater plan shall be accompanied by a completed 'Checklist for Stormwater Concept Plans' as per Appendix A of Council's Stormwater Drainage Specification for Building Developments policy.	The checklist has been provided as part of Stormwater Report prepared by Acor.
54.	On-site Stormwater Detention (OSD) Due to the possible constraints of delivering a compliant estate drainage system, on-site stormwater detention will be required to be delivered for each lot.  Any OSD system or water quality system must be within common property and accessible from the street without going through dwellings or private courtyards.	Future development on the sites will need to address on-site detention. This will be subject of future DAs.
<b>J</b>	<b>Water Sensitive Urban Design (WSUD)</b>	
55.	WSUD is to be applied to the site. Council's preference is for on-lot vegetated treatment systems (i.e. raingardens) as they align with Councils WSUD Policy and Cooling the City Strategy.	A WSUD Report has been prepared by Acor and accompanies the DA.

Ref	Council Comment	Response
56.	Concept plans for on-lot treatment systems are to be prepared in accordance with Council's WSUD Technical Guidelines. The concept plans shall include the size of the raingarden required for each lot along with a suitable discharge point for connection of site drainage into the road drainage network. A Restriction as to User and a Positive Covenant are to be placed upon each lot to ensure any future development of the lots will require the construction, implementation, and maintenance of the on-lot WSUD treatment measures.	The WSUD Report being prepared by Acor has addressed the requirement for future industrial buildings to provide on-site detention.
57.	Council will not accept the dedication of any estate-based bio-retention / detention drainage basin. If any estate drainage basin is proposed, then ownership and maintenance of the system shall be undertaken in perpetuity by the lots that benefit from the system.	The proposed detention basin in the north eastern corner of the site is fully contained within a private lot. The detention basin will be protected by an easement. The stormwater infrastructure lot in the south western corner will be retained by Council.
58.	WSUD treatment of the road system shall also be provided. Council will consider the use of tree pits / rain gardens within the road reserve. Full details are to be submitted with the application.	The Stormwater Strategy proposed is justified in the report prepared by Acor and attached to this DA.
59.	The application shall include MUSIC modelling (*.sqz file) demonstrating drainage from the estate complies with Council's adopted Water Sensitive Urban Design Policy and Technical Guidelines.	The relevant MUSIC modelling files have been provided with the DA.
60.	A water sensitive urban design strategy prepared by a suitably qualified person is to be provided for the site. The strategy shall address water conservation, water quality as well as outline operation and maintenance requirements.	Acor Consulting have prepared the WSUD strategy.
61.	Water conservation measures are to be provided and assessed as part of any future development applications for each lot. Future developments would need to meet a minimum of 80% of their non-potable demand with harvested rainwater (as well as comply with requirements outlined Section 3.1 of Council's WSUD Policy).	Noted
62.	In preparing the supporting information, the proponent is advised to refer to Council's WSUD Technical Guidelines. The guidelines were prepared to outline how to comply with the requirements of Council's WSUD policy and outline Council's requirements in relation to the contents of a WSUD Strategy and detail required for concept designs to be lodged with the	The guidelines have been addressed in Acor's WSUD report.

Ref	Council Comment	Response
	development application. The guidelines refer to resources which guide the development of suitable plans for submission with a development application.	
<b>K</b>	<b>Mainstream Flooding</b>	
63.	The site has been identified as being subject to flood related development controls.	Noted
64.	The site is affected by mainstream flooding from Nepean River.	Noted
65.	The application must demonstrate that the proposal is compatible with the State Government Floodplain Development Manual and Council's Development Control Plan for Flood Liable Lands.	Stormwater and flooding have been addressed by the reports and design prepared by Acor as well as a Flood Emergency Response Strategy prepared by Advisian.
66.	The application shall specifically address all parts of Clause 5.21 Flood Planning of the Penrith LEP including flood evacuation and climate change.	The SEE demonstrates compliance with the relevant clause in the Penrith LEP.
67.	The application must be accompanied by a Flood Risk Management Plan (FRMP) prepared by a suitably qualified person. The FRMP shall include the assessment of filling of the site upon local and regional flooding up to the 200-year ARI flood event. The FRMP shall also assess regional flood evacuation for the PMF event.	The flood risk has been addressed in the report prepared by Advisian.
68.	The development shall not increase flood levels or velocities within Old Bathurst Road. Pre and post flood differential mapping demonstrating compliance, shall be included with the application.	The design has avoided any unreasonable increase in flood levels or velocity on Old Bathurst Road.
69.	The application will be referred to the Department of Planning who will coordinate a response with Infrastructure NSW (INSW) and NSW State Emergency Service (SES) to determine if the development will exceed the capacity of evacuation routes.	Noted
70.	The finished surface level of all lots shall be located above the Flood Planning Level (i.e. 1% AEP flood level + 0.5m freeboard).	Filling on the site has been provided to ensure the lots will have a level 1% AEP + 0.5.
71.	To assist with flood modelling, Council's 2D flood model is available for purchase. A link to the application form is provide below:	Noted.

Ref	Council Comment	Response
	<a href="https://www.penrithcity.nsw.gov.au/council/ourorganisation/forms?download=545:flood-model-data-application-form">https://www.penrithcity.nsw.gov.au/council/ourorganisation/forms?download=545:flood-model-data-application-form</a>	
72.	Further information regarding Council's Flood Studies is available from Council's website at the following address: <a href="https://www.penrithcity.nsw.gov.au/services/other-services/floodplainmanagement">https://www.penrithcity.nsw.gov.au/services/other-services/floodplainmanagement</a>	Noted.
<b>L</b>	<b>Local Overland Flow Flooding</b>	
<b>73.</b>	The site flood affected by local overland flow flooding from the local catchment.	<b><i>Noted</i></b>
<b>74.</b>	Any fencing of the area impacted by overland flows shall be of an open style fence to permit the passage of floodwaters.	The design of any future fencing can be regulated through the implementation under an 88B instrument that can be implemented through a condition of consent.
<b>74.</b>	The development shall consider the drainage strategy of the adjoining TfNSW commuter car park currently under construction.	The design levels and drainage has considered the impact to and from the adjoining commuter car park.
<b>76.</b>	The development shall cater for existing sheet flows from any adjoining properties.	This has been considered in the design.
<b>77.</b>	The development shall not have an adverse impact upon adjoining properties through the concentration, diversion or concentration of stormwater flows.	The stormwater strategy has demonstrated that no unreasonable impact will result from stormwater flows generated by the development.
<b>M.</b>	<b>Traffic and Site Access</b>	
78.	The nominated internal roads widths of 20.6m, incorporating a 13m carriageway, comply with the Penrith DCP, Part C10.	The proposal accommodates Council's standard industrial road configuration.
79.	Old Bathurst Road is a Regional Road (7000 series) and as such, the application shall be referred to Transport for NSW.	Old Bathurst Road is a regional road, controlled by Council. There is no referral to Transport for NSW required as outlines earlier in Council's advice.

Ref	Council Comment	Response
80.	It is recommended that signalising the existing intersection at Old Bathurst Road and David Road be included as part of the proposed development to act as the primary (and only) access to the site via David Road. Concern is raised with the potential requirements for slip lanes or similar safety measures to control the movement of vehicles into and out of the site at the proposed secondary Old Bathurst Road access. If this was not pursued, evidence of safe and efficient pedestrian and vehicular movements would be required. If a signalised intersection is advanced, a concept plan of the proposed signalised intersection shall be submitted with the application.	The proposal includes the signalisation of the Old Bathurst Road and David Road as well as utilising the existing entrance into the site directly off Old Bathurst Road.
81.	<p>If a secondary access is proposed from Old Bathurst Road, contrary to the above recommendation, then a concept plan of the proposed intersection shall be prepared and submitted with the application. The secondary intersection shall be designed to provide the following:</p> <p>Be limited to a left-in and left-out arrangement;</p> <p>Include appropriate deceleration and acceleration slip lanes along Old Bathurst Road;</p> <p>Provision of a 3.5m wide verge along Old Bathurst Road;</p> <p>Determine the land required from the adjoining TfNSW property to be dedicated as road reserve to accommodate the left turn slip lane and 3.5m verge;</p> <p>Include land owners consent from TfNSW for the dedication of any land as road reserve;</p> <p>Consider the location and queue lengths of the proposed roundabout at the intersection of Old Bathurst Road and Smith Street that is to be delivered by TfNSW to provide access to the new commuter car park;</p> <p>Consider the location of any opposing driveways on Old Bathurst Road along with access into those impacted properties;</p> <p>Consider an ultimate design for Old Bathurst Road;</p> <p>Include a central physical barrier to prevent the right turn movement of any trucks. In this regard a standard central median is not sufficient;</p> <p>An assessment of Safe Intersection Site Distance and Safe Intersection Stopping Distance; and</p> <p>Be designed in accordance with Austroads and TfNSW guidelines.</p>	<p>The proposed access off Old Bathurst Road has been designed in accordance with the Traffic Impact Assessment, which has been informed by a Road Safety Audit.</p> <p>The access will be:</p> <ul style="list-style-type: none"> <li>- Left in and left out.</li> <li>- Includes a deceleration and acceleration slip lane.</li> <li>- No land is required to be dedicated from the Transport for NSW site.</li> <li>- Considers queue lengths of surrounding intersections including roundabouts.</li> <li>- Considers existing driveways,</li> <li>- Provides a median strip and can include signage that restricts right turn movement by trucks.</li> </ul>

Ref	Council Comment	Response
82.	Road widening will be required along Old Bathurst Road near the intersection with David Road, to ensure a minimum verge width of 3.5m.	Any requirement for road widening at this location will be investigated during the detailed design.
83.	Pending internal lot sizes, B-Double access is to be accommodated throughout the internal road network and external intersections.	The intersections into the site and internal road network has been designed to accommodate B-Double access.
84.	Suitable pedestrian access from Emu Plains Station is to be demonstrated	A footpath is required to be delivered along the entire Old Bathurst Road frontage as well as within the estate itself. The finished level on the site has been designed to integrate with the Transport for NSW commuter car park.
<b>N.</b>	<b>External Works</b>	
85.	The development will be required to provide kerb and gutter and associated road pavement construction / reconstruction for the full property frontage along Old Bathurst Road.	The design has accommodated kerb and gutter along Old Bathurst Road.
86.	Dedication of land as Road Reserve will be required along the Old Bathurst Road frontage to ensure a continuous minimum 3.5m wide verge is available from the property boundary to the face of the kerb and gutter.	The design has accommodated a continuous 3.5m wide verge.
87.	The development will be required to provide a 1.5m wide concrete footpath for the frontage of the development site along Old Bathurst Road and David Road.	The footpath has been provided in the design as required.
88.	The development will be required to relocate underground, the existing overhead power lines and telecommunications cables for the frontage of the development site.	
<b>M</b>	<b>Earthworks</b>	
89	No retaining walls or filling is permitted for this development which will impede, divert, or concentrate stormwater runoff passing through the site.	A detailed stormwater strategy has been provided to accompany the proposal.
90	Earthworks and retaining walls must comply with Council's Development Control Plan.	Noted

Ref	Council Comment	Response
91.	Proposed fill material must comply with Council's Development Control Plan.	Fill will be sourced and imported to the site in accordance with Council's requirements. It is anticipated that suitable conditions of consent will be provided.
92	The application is to be supported by a geotechnical report prepared by a suitably qualified person to address site suitability for the placement of any fill material.	A Geotechnical Report has been provided with the DA.
<b>O.</b>	<b>Subdivision Works</b>	
93.	The application is to be accompanied by a subdivision concept plan.	A Subdivision Concept Plan has been provided with the DA.
94.	The subdivision layout shall be in general accordance with Council's Development Control Plan.	The SEE demonstrates compliance with Council's DCP.
95.	A Stage 2 Road Safety Audit is to be submitted with the application.	A Road Safety Audit accompanies the DA.
<b>P</b>	<b>Traffic</b>	
96.	General Old Bathurst Road is an unclassified Regional Road under Council care and control. However, the proposed development will still be referred to Transport for NSW (TfNSW) due to the scale of the proposed works.	The proposal meets the threshold for Traffic Generating development and will be referred.
97.	Access, Circulation and Traffic Generation The applicant shall provide a traffic impact assessment to assess the potential impacts of traffic generated by the proposed development. The traffic assessment will also support the access requirement of the development.	A Traffic Impact Assessment accompanies the DA.
98.	Due to the nature of the proposed development, the trip generation assessment shall also include HV movements.	The proposal includes swept paths that demonstrate the site is accessible to B-Double truck movements.
99.	The trip distribution assignment shall be supported by adequate data (i.e. Census, existing traffic volumes, etc).	The Traffic Impact Assessment includes assessment of existing traffic volumes and the impact of the proposal.



Ref	Council Comment	Response
100.	Traffic modelling shall be undertaken at, but not limited to, the following locations: All site access points; Old Bathurst Road - David Road; Old Bathurst Road - Russell Street; Old Bathurst Road - Smith Street (future roundabout); and Great Western Highway - Old Bathurst Road (TfNSW may require this intersection to be assessed because GWH is a State Road and all traffic that will travel to/from east of the site will pass this intersection).	The Traffic Impact Assessment includes a review of the following intersections: Old Bathurst Road/Russell Street Old Bathurst Road/David Road Old Bathurst Road/site access Old Bathurst Road/Smith Street Old Bathurst Road/Great Western Highway.
101.	If Old Bathurst Road - David Road will be upgraded to signals, a preliminary Traffic Control Signal (TCS) plan has to be prepared and submitted to TfNSW for in-principle support. Once approved by TfNSW, a detailed TCS plan is to be prepared.	Detail on the proposed Traffic Control Signals are provided in the Traffic Impact Assessment.
102.	All access and internal roads must be designed for B-double access even if only partial lots will be B-double accessible. This is to allow B-doubles to safely turn around within the development.	Internal road design supports B-Double movements.
103.	Provide swept paths of the largest vehicle turning at Old Bathurst Road- David Road intersection and site access points, and travelling along all internal roads.	Swept Paths have been provided.
<b>Q.</b>	<b>Waste</b>	
104.	The proposal at this stage contains limited information in relation to design for waste collection and infrastructure. Therefore, reference is made to Council's waste guideline below to assist in progressing the detailed design.	The proposal does not include any use or built form. Waste requirements for individual buildings will be considered under separate DAs. The proposal is supported by a waste management plan for the construction of the subdivision.
105.	Waste collection vehicles to service industrial developments are to be designed in accordance with the vehicle specifications outlined in section 3.5 of the 'Industrial, commercial and mixed-use waste management guideline' document.	The internal road network has been designed in accordance with Council's standards and can be accessed by a waste vehicle.

Ref	Council Comment	Response
106.	<p>Swept Path Models (section 2.2.3)</p> <p>Swept path models to be provided illustrating how a standard waste collection vehicle (section 3.5) will enter, service and exit the site. A 0.5m unobstructed clearance is required from all obstructions for the vehicle's ingress and egress manoeuvres. The model is to show on-street parking on both sides of the road adjacent to the development to demonstrate unobstructed access during a 'business as usual' configuration.</p>	
107.	<p>Waste collection infrastructure is to be provided in accordance with section 3.1 of the 'Industrial, commercial and mixed-use waste management guideline' document.</p> <p><a href="https://www.penrithcity.nsw.gov.au/images/documents/buildingdevelopment/planning-zoning/planningcontrols/Waste_Management_Guidelines_Industrial_Commercial_Mixed_Use.pdf">https://www.penrithcity.nsw.gov.au/images/documents/buildingdevelopment/planning-zoning/planningcontrols/Waste_Management_Guidelines_Industrial_Commercial_Mixed_Use.pdf</a></p>	<p>No waste collection infrastructure is required as part of this subdivision application. Subsequent DAs for the use will require consideration of Council's waste management guideline.</p>

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