Our reference: P-1218509-X4M9
Contact: Sandra Fagan
Telephone: (02) 4732 7992

10 August 2026

NSW Department of Planning, Housing, and Infrastructure
4 Parramatta Square
12 Darcy Street,
Parramatta, NSW, 2124

Attention: David Schwebel
Email: david.schwebel@planning.nsw.gov.au

Dear David,

Council Advice on the Modification Application and Report for SSD-46983729-Mod-2 - Westlink Stage 2 – Remedial Action Plan (ESR at 62a-72 Abbotts Road, Kemp Creek)

Thank you for providing Penrith City Council the opportunity to comment on the subject modification application and report.

Council has reviewed the information referred for comment on 03 August 2026 and provides the following advice for the Department's consideration:

1. **Planning Considerations**

a) It is understood that Mod-2 relates to proposed changes to the Remediation Action Plan to allow for the retention of contaminated material on site (cap and contain).

b) It is requested that DPHI and the Proponent ensure that there is no remediation solution that involves onsite cap and containment within/below any areas that are either currently owned or managed by Council, or within/below any areas intended to be dedicated to Council as public land. This includes roads and future roads.

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

c) The Modification Report states that the proposed containment cells will be "*along the eastern portion of Lot 2, within the approved 30m landscaped setback, offset from the site boundary and capped with suitable clean material*". The Report goes on to state that "*The approved eastern landscape setback, including mounding and vegetation screening where required, remains capable of being delivered above or around the containment cells subject to detailed landscape and remediation coordination*".

d) Given that it is proposed to locate the containment cells within approved deep soil landscaped areas, DPPHI should consider whether information relating to landscape impacts from the relevant landscape consultant should be provided upfront. This should also be reconciled with the civil details relating to location of existing and proposed underground services and retaining wall locations.

e) Such information will allow assessment of the likely impacts of the proposed modification on the longevity and vitality of deep soil landscaping within the landscaped setback. This information should consider resulting volume of clean soil to sustain growth as per the approved landscape plans. Although it is acknowledged that the documentation refers to structural integrity and cell maintenance, it is unclear why the cap and contain cells are not proposed to be under structure such as the warehouse slabs, given the reference to a depth of 2.4m which would be well under the slab.

f) If the RAP is accepted by the consent authority, there should be a requirement for a Positive Covenant on title which captures that there are contaminated materials present on the site. This should include a Long-Term Environmental Management Plan to require ongoing implementation and management.

g) The covenant shall:
    a. Burden the relevant lot/s,
    b. State that there is soil contamination on the land. Any risks from the presence of that contamination should be assessed

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

prior to undertaking development on the land or changing the use of the land,

c. State that the land is the subject of a Long-Term Environmental Management Plan that contains specific requirements in relation to managing activities on this land,
d. State that the land is the subject to a Site Audit Statement, as issued by a NSW EPA Accredited Site Auditor, that may contain specific requirements in relation to managing activities on this land,
e. State that the Registered Proprietor of the Land Burdened is to do all things necessary to comply with the Long-Term Environmental Management Plan and any relevant requirements of the Site Audit Statement,
f. Name that the authority having the power to release, vary or modify the Positive Covenant by a Prescribed Authority referred to is Penrith City Council.

h) The Proponent should be required to provide Council with a copy of the endorsed Remediation Action Plan, Long-Term Environmental Management Plan, Site Audit Statement, and Validation Report. Council will include information on the Planning Information Certificates.

2. Environmental Management Considerations

As a consequence of the state significant development classification of this application, the Environment Team notes that the Department is the assessment and consent authority for this proposal. As part of their assessment of the modification application, the Department should satisfy themselves that the following aspects are adequately addressed:

Land Contamination

a) Chapter 4 of SEPP (Resilience and Hazards) requires that the consent authority be satisfied in relation to the site's suitability for the proposed use. In turn, DPHI will need to ensure that the site is suitable, or can be made suitable, prior to its use.

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

b) Noting that an amended remediation approach is proposed which includes on-site containment, Council does not support locating these materials beneath future public land (Council-owned land) or areas of biodiversity value. In addition, mechanisms should be put in place to ensure that where a Long-Term Environmental Management Plan (LTEMP) is required for the ongoing management of any materials left in-situ, that restrictions will be placed on the land title referencing these materials and the requirements for ongoing management (ie. the implementation of the LTEMP).

c) It is requested that copies of all contamination-related documentation (such as any Preliminary Site Investigations, Detailed Site Investigations, Remediation Action Plans, Validation Reports and Long-Term Environmental Management Plans, along with any documents prepared by a NSW EPA Accredited Site Auditor endorsing these documents) be provided to Council. These will be recorded on the property file and will be placed as property notations on the Section 10.7 planning certificates prepared.

Should you wish to discuss this matter further, please contact me directly on (02) 4732 7792.

Yours sincerely,



Sandra Fagan
Principal Planner

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