

ATTACHMENT 1

Office of Environment and Heritage (OEH) comment on the proposed Energy from Waste Facility (SSD 6236) at lots 1, 2, 3 and 4 DP 1145808, Honeycomb Drive, Eastern Creek

Aboriginal Cultural Heritage

OEH has reviewed several documents prepared to assess the Aboriginal cultural heritage significance and Aboriginal archaeological values for the proposed energy to waste facility. These reports include assessments prepared by GML Heritage Pty Ltd in 2014 in addition to the results of test excavation at one area (EFW South) by Artefact Heritage Pty Ltd and its following amended assessment report (Aboriginal Cultural Heritage Assessment Report or ACHAR).

These assessments have demonstrated an appropriate level of Aboriginal community consultation as recommended by OEH which conform to the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*. The assessment of Aboriginal cultural and archaeological heritage values has been undertaken in accordance with other current OEH guidance material including the *Guide to Investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW 2010*.

OEH notes that the proposal will cause harm to one site known as EFW South, which has been investigated through test excavation and this has confirmed the nature, extent and significance of the likely archaeological deposit. OEH is satisfied that this assessment has been adequate to appropriately investigate and document the likely archaeological resource at this location where harm is proposed by this development. It is further noted by OEH that the EIS states that land zoned as "E2 conservation" within lot 10 will be retained undeveloped in the future. This area retains an AHIMS site identified by GML Heritage as "Archbold Road 1" and has been assessed as containing high Aboriginal archaeological sensitivity, as well as ecological value. The preservation and conservation of this site within this area of environmental protection is supported by OEH without further test excavation to confirm its archaeological values.

OEH does however note that the study area, as a remnant landscape within Eastern Creek as a whole, retains high cultural heritage values to the Darug community. The proposed development will cause harm to this landscape through this and future subdivision and development alluded to in the EIS. The harm to this landscape and the high cultural values attributed by the Aboriginal community have not been adequately addressed in the Environmental Impact Statement prepared by Urbis consulting, or by Artefact Heritage Pty Ltd in its Amended ACHAR (2015:p 17). However it is noted that there is an intention to retain two additional AHIMS sites known as "Archbold Road 1" and "Archbold Road 2" without harm through this proposal and as mentioned above, Archbold 1 is within the E2 protection zone. It is not clear in the supporting EIS or Amended ACHAR prepared by Artefact Heritage what is proposed for the long term conservation of Archbold Road 2 other than avoidance during the proposed construction program for this State Significant Development. If this site is not specifically protected through an additional conservation zoning then there is no conservation outcome and the ACHAR and EIS should make this clear. OEH requests that the proponent clarify whether additional conservation measures are proposed for Archbold Road 2 and what they may entail, to clarify this matter for both the Aboriginal community involved in this project and DPE/OEH.

Biodiversity

- OEH's previous comments raised the issue that the proposal did not adequately 'describe how the principles of "avoid, mitigate, offset" have been used to minimise the impacts of the proposal on biodiversity', as required by the Director General's requirements. More information has been provided in section 8.1 of the Flora and Fauna Assessment Report (FFAR) (Abel Ecology 2015), in relation to measures to mitigate and offset impacts. However, the report states that clearing areas of biodiversity 'has not been avoided'. This is not adequate. The report should include a discussion of how the design of the proposal has considered alternatives that take into account the impacts on biodiversity, and why alternatives that would have a lesser impact were not feasible.
- OEH's previous comments also raised the issue that the report should include data from the quadrats. It is noted that the quadrat data has now been provided and figures in the FFAR report display the location of the quadrats, however the quadrats should be numbered in these figures so that the data can be related back to its location.
- OEH's previous comments noted there was no proposal to provide offsets. It is noted the amended report now proposes offsets, which include the regeneration or replanting of areas of Cumberland Plain Woodland and River Flat Eucalypt Forest. However, OEH considers the proposed offsets are inadequate, for the following reasons:
 - most of the areas to be replanted/regenerated are within the State Environmental Planning Policy 59 riparian boundary, which was already required to be protected. Therefore it is considered that the proposal is likely to result in a net loss of biodiversity over the site.
 - a large proportion of the River Flat Eucalypt Forest offset area will be on batters around the building platform and bio-retention basin. The likelihood of recreating River Flat Eucalypt Forest on well drained batters, and maintaining them in the long term is very low, given this community naturally occurs on flat, damp or waterlogged floodplains.
 - the offsets proposed in the FFAR calculate out as ratios of 1.7:1 for the River Flat Eucalypt Forest and 2:1 for Cumberland Plain Woodland. Adequate offsetting ratios for replanting should be much greater, in the order of 10:1-20:1, given the time required to recreate ecosystems and the risk of failure.
 - the areas proposed for regeneration and revegetation have no long term protection, such as appropriate zoning or covenants.
- The FFAR recommends the preparation and implementation of a Vegetation Management Plan (VMP). However, there is no commitment in the EIS to prepare such a document. Any conditions of consent should require the preparation of a VMP and implementation in perpetuity.
- OEH supports the recommendations listed in section 11 of the FFAR, including the recommendation to undertake further surveys for the Cumberland Land Snail prior to vegetation clearing
- Section 11 of the FFAR includes species recommended to be used in revegetation. OEH also recommends that any plants used in replanting should be of local provenance.

END OF SUBMISSION