Susan Fox
Industry Assessments
Planning and Assessment Group
4 Parramatta Square
12 Darcy Street
Parramatta NSW 2150

Dear Ms Fox,

Subject: Request for Modified SEARs for Chullora Materials Recovery Facility, 21 Muir Road, Chullora (SSD 10401) (Canterbury-Bankstown)

Thank you for your letter received on 1May 2020, requesting input from Environment, Energy and Science Group (EES) in the Department of Planning, Industry and Environment on the SEARs for Chullora Materials Recovery Facility, 21 Muir Road, Chullora.

It is noted that the applicant is requesting modified SEARs that delete the need for an Aboriginal Cultural Heritage Report. Instead the applicant is requesting that a Due Diligence report replace the requested ACHAR.

The due diligence process outlined in the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW, 2010) is not a substitute for undertaking an Aboriginal cultural heritage assessment.

Due diligence is a legal defence against harm under section 87 of the National Parks and Wildlife Act 1979 (NPW Act) and is not designed for the assessment of major projects. Under the NPW Act, regardless of the existence of due diligence, if an object is found and is going to be harmed, even in a disturbed context, work must stop, and an Aboriginal Heritage Impact Permit applied for. As the NPW Act does not apply to major projects, the use of the due diligence process for major projects is not appropriate.

On this basis, EES is unable to modify the SEARs issued by EES on 5 December 2019 and recommends that an ACHAR is included within the final SEARs issued by Department of Planning, Industry and Environment.

Should you have any queries regarding this matter, please contact Bronwyn Smith, Senior Conservation Planning Officer on 9873 8604 or bronwyn.smith@environment.nsw.gov.au

Yours sincerely

S. Harrison

07/05/20

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