

Ms Prity Cleary
Senior Planning Officer
Infrastructure Assessments
Department of Planning and Environment
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Advice provided via the Major Projects Portal

Dear Ms Cleary

Response to Submissions, SSD-10360337, St Philips Christian College, Cessnock Campus

Thank you for the opportunity to provide Aboriginal cultural heritage advice on the Response to Submissions (RTS) for the St Philips Christian College, Cessnock Campus State Significant Development application (SSD 10360337). We understand this SSD relates to proposed works to St Philips Christian College in the Cessnock City Council Local Government Area.

In preparing this advice we have reviewed the RTS including the:

- Response to Submissions Report, prepared by Barr Planning, dated November 2022(a)
- Amendment Report, prepared by Barr Planning, dated November 2022(b)
- Addendum letter prepared by McCardle Cultural Heritage dated 22 April 2022.

We have also considered the following:

- Aboriginal Cultural Heritage Assessment Report (ACHAR) prepared by McCardle Cultural Heritage Pty Ltd dated 3 November 2021 (provided with the EIS).
- AECOM, 2010, *Aboriginal Heritage Assessment, Proposed St Phillips College Campus Development* (previously submitted to the former Office of Environment and Heritage with an application for an Aboriginal Heritage Impact Permit (AHIP)).

Heritage NSW provided previous advice on the Environmental Impact Assessment

Heritage NSW has previously reviewed the Environmental Impact assessment (EIS) for this project. We provided Aboriginal cultural heritage advice on the EIS to the Department of Planning and Environment on 21 March 2022.

In that advice, we outlined recommendations to amend the ACHAR to address the Secretary's Environmental Assessment Requirements (SEARs) for the project.

The RTS has partially addressed our previous comments

McCardle Cultural Heritage (2022) has provided an addendum letter to address the previous Heritage NSW comments. This letter broadly argues that works on the land have

disturbed some areas of previously identified Potential Archaeological Deposit (PAD). As a result, McCardle (2022) concludes that no Aboriginal objects or areas of PAD will be harmed by the current proposed works and that no further Aboriginal cultural heritage investigation is required.

We note that ground disturbance does not automatically remove the potential for Aboriginal objects to be present. For example, Aboriginal objects have been recorded in disturbed contexts on this land, including at site 37-6-02099 (SPC4) recorded on the edge of a dam.

The McCardle (2022 and 2021) advice is based on the outcomes of archaeological survey. Given Covid-19 restrictions at the time, the Registered Aboriginal Parties were not invited to attend the survey (McCardle 2021, p.16). No archaeological test excavation has been conducted to determine the extent or nature of the identified PADs.

There is a risk that not conducting test excavations may reduce the reliability of the conclusions presented in the ACHAR. This risk is particularly relevant to proposed works between Wine Country Drive and the Black Creek Oxbow, in the vicinity of a PAD identified previously by AECOM (2010). The McCardle (2021 and 2022) assessment has removed this area of PAD and assessed that land as not having archaeological potential.

The risks could be reduced by conducting a program of archaeological test excavation to determine the nature and extent of recorded Aboriginal objects and areas of PAD within the impact area. However, we acknowledge the re-assessment of archaeological potential of this land presented by McCardle (2021 and 2022).

Heritage NSW Aboriginal cultural heritage management recommendations

We support the commitment in the RTS (Barr Planning 2022a, p.61) that all works under SSD 10360337 will avoid the identified areas of PAD (noting that this is referring to areas of PAD identified by McCardle Cultural Heritage (2021 and 2022)).

Should the Department consider approving this SSD application, we recommend the following be considered as conditions of consent:

- The proposed construction works and ancillary activities must not harm any Aboriginal objects or those areas of Potential Archaeological Deposit identified in the Aboriginal Cultural Heritage Assessment Report (ACHAR) prepared by McCardle Cultural Heritage Pty Ltd (dated 3 November 2021).
- A 'stop work' protocol must be prepared before the start of construction works to manage any Aboriginal objects that may be identified during works.
- An Aboriginal Cultural Heritage Management Plan (ACHMP) must be prepared to protect the identified Aboriginal objects and areas of Potential Archaeological Deposit on the campus.
 - The ACHMP must be prepared in consultation with the Registered Aboriginal Parties.
 - The ACHMP must be prepared before the start of works under this SSD application.

We are aware of an ongoing compliance investigation

Heritage NSW understands that the Department of Planning and Environment has an active compliance investigation in relation to potential unauthorised harm to Aboriginal

objects associated with previous works at St Philips Christian College. Heritage NSW has an advisory role assisting the Department, as required, with their investigation.

We note that the investigation by the Department of Planning and Environment is independent of our role in providing this advice on the SSD application.

If you have any questions regarding the above advice please contact Rose O'Sullivan, Senior Assessments Officer, at Heritage NSW on (02) 4224 4177 or via email at rose.osullivan@environment.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N91 Davis'.

Nicole Davis

Manager Assessments

Heritage NSW

Department of Planning and Environment

(As Delegate under *National Parks and Wildlife Act 1974*)

Date: 23 November 2022