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Your reference: SSD-10446
Our reference: DOC20/648291-20

By email: Ellen.Luu@planning.nsw.gov.au

Dear Ms Luu

**HERITAGE NSW – ABORIGINAL CULTURAL HERITAGE REGULATION
STATE SIGNIFICANT DEVELOPMENT (SSD)
EXHIBITION OF ENVIRONMENTAL IMPACT STATEMENT**

Proposal: Luddenham Resource Recovery Facility
SSD application no: SSD-10446, received 27 July 2020

Thank you for referring the Environmental Impact Statement (EIS) for the above State Significant Development (SSD) to Heritage NSW for comment. We understand this SSD relates to the construction and operation of an advanced construction and demolition resource recovery centre.

In preparing the following advice we have reviewed the following documents:

- SEARs for SSD-10446 issued 24 April 2020
- Luddenham Advanced Resource Recovery Centre Environmental Impact Statement prepared by EMM Consulting Pty Limited (EMM), dated July 2020a.
- Luddenham Resource Recovery Centre Aboriginal Cultural Heritage Assessment (ACHAR) - prepared by EMM, dated July 2020b.

Aboriginal cultural heritage regulation review of EIS

Heritage NSW has reviewed the EIS and notes the proposed area for development has previously been subject to a range of moderate and high levels of ground disturbance as part of previous quarrying and land use activities. It is noted that a level, grassed area, within 200m of Oak Creek in the project area, has experienced some historic disturbance from de-vegetation and use as a grazing paddock. EMM (July 2020b) noted that there is negligible potential for surface and/or subsurface material to be present in the southern and eastern boundaries of the subject property. Despite the prior disturbance, one Aboriginal site has previously been located within the project footprint.

It is understood that Aboriginal consultation for the project has been undertaken in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (DECCW 2010). During the archaeological survey and discussion, the registered Aboriginal parties (RAPs) raised several concerns regarding the loss of land to development and the impact this has on Aboriginal cultural heritage. The RAPs agreed on the following:

- Ground surface exposure and visibility was too low for the identification of Aboriginal objects and therefore test excavation would be necessary
- Test excavation was seen by the RAPs as an opportunity to find out more information about Aboriginal heritage and culture
- In the current subject area similar landforms existed to those at the adjacent Badgerys Creek area which indicated that artefacts may be present also within the current subject area
- It was suggested that burials may occur in the subject area
- The importance of protecting known sites
- The Oaky creek riparian corridor has high potential for Aboriginal cultural heritage and needs to be avoided and protected.

As a result of the Aboriginal consultation undertaken for the project it was agreed that test excavations will be conducted to characterise the subsurface potential for Aboriginal artefacts. RAPs have been provided with a draft ACHA (pre-excavation) and a test excavation methodology for review. The results of excavation and subsequent management measures derived from the results will be formulated in consultation with RAPs

Aboriginal cultural heritage regulation advice for EIS

Mitigation measures for Aboriginal cultural heritage are outlined in section 7.10.6 of the EIS (pages 160 – 161). These mitigation measures have been taken from the management measures listed in Section 10.2, on pages 53-54 of the EMM ACHAR (July 2020b). We note the ACHAR outlines the intention to undertake test excavations whilst the EIS has been on public exhibition. Heritage NSW supports the undertaking of test excavations as part of the environmental assessment prior to project approval. We agree with the mitigation measures outlined by EMM and look forward to reviewing the project again with the results of the test excavations.

Please note: the above comments relate only to Aboriginal cultural heritage regulation matters. You may wish to seek separate advice from Heritage NSW in relation to matters under the *Heritage Act 1977*.

If you have any questions regarding the above advice please contact Kym McNamara on (02) 6229 7028 or via email at kym.mcnamara@environment.nsw.gov.au.

Yours sincerely



31 August 2020

Jackie Taylor
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Heritage NSW