



Your ref: SSD-71558711
Our ref: DOC25/584006

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By email: Andy.Nixey@planning.nsw.gov.au

5 September 2025

**Subject: Request for advice on EIS - Mixed use Precinct with infill affordable housing-
Hughes Ave, Melrose Park South-West (SSD-71558711)**

Dear Andy,

Thank you for your email dated 14 July 2025 seeking advice from the Conservation Programs, Heritage and Regulation (CPHR) Group of the of the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) on the State Significant Development Application (SSD-71558711) located at 82 Hughes Avenue, Ermington.

CPHR has reviewed the *Melrose Park South-West Environmental Impact Statement for State Significant Development Application* (Ther Planning Studio, 19 June 2025) (EIS) and accompanying technical reports and provides its comments and recommendations in Attachment A. In summary:

Biodiversity

CPHR has identified several inadequacies in the Biodiversity Development Assessment Report (BDAR) in regard to the assessment of prescribed and indirect impacts, including shading of the adjoining wetland, artificial night lighting and potential for bird collision. The BDAR should be updated to address these issues.

Flood risk management

CPHR considers that the Flood Impact and Risk Assessment sets out flood behaviour and impact and provides risk management measures appropriate for this development, however consideration should be given to the location of the driveways away from hazardous flooding in the Probable Maximum Flood (PMF). The NSW SES should be consulted on the Flood Emergency Response Plan.

If you have any questions about this advice, please do not hesitate to contact Khatera Tokhi Senior Conservation Planning Officer, via khatera.tokhi@dcceew.nsw.gov.au.

Yours sincerely,

Louisa Clark
**Director,
Regional Delivery – Greater Sydney Branch**

CPHR response on the EIS for Mixed use Precinct with infill affordable housing- Hughes Ave, Melrose Park South-West SSD-71558711

In preparing this advice CPHR has reviewed the following documents:

- *Melrose Park South-West Environmental Impact Statement for State Significant Development Application* (Planning Studio, 19 June 2025) (EIS)
- *Melrose Park South-West Biodiversity Development Assessment Report* Version Number 1 (Eco Logical Australia, 15 April 2025) (BDAR)
- *SSDA Precinct Design Report, Melrose Park South-West Precinct*, Rev B (Fender Katsalidis, May 2025)
- *Arboricultural Impact Appraisal and Method Statement*, Rev A (Naturally Trees, 26 September 2024) (AIA)
- *Melrose Park South-West, Landscape SSDA Design Report*, Issues A (Arcadia, 11 April 2025)
- *Melrose Park South-West Precinct, Melrose Park NSW, Stage of Works, Landscape Plan set*, Issues A (Arcadia, 3 April 2024)
- *Melrose Park South (West) - Flood Impact and Risk Assessment* (Lyll and Associates, 4 April 2025) (FIRA)
- *Flood Emergency Response Plan - West Melrose Park South - Flood Emergency Response Plans* (Water Technology Pty Ltd, 10 April 2025) (FERP).

Biodiversity

Key Assessment Issues

1.	<i>Overshadowing Impacts to mangroves</i>	The shading caused by the proposed buildings is expected to have considerable impacts on the adjoining wetland at Ermington Bay. The wetland is an area of high ecological value and is identified as: • part of the Important Habitat Map for Migratory Shorebirds • Type 1 (highly sensitive) Key Fish Habitat • a Coastal Wetland under the <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> (Resilience and Hazards SEPP). Furthermore, the wetland is anticipated to support migratory bird species listed under the <u>Japan-Australia Migratory Bird Agreement (JAMBA)</u>, <u>China-Australia Migratory Bird Agreement (CAMBA)</u>, and the <u>Republic of Korea-Australia Migratory Bird Agreement (ROKAMBA)</u>. The shading impact is considered a serious concern, particularly as its long-term effects on wetland vegetation are uncertain. The affected vegetation comprises mangroves, classified as marine vegetation, which are protected under the <i>Fisheries Management Act 1994</i> (FM Act), rather than the <i>Biodiversity Conservation Act 2016</i> (BC Act). The Ermington Bay wetland is afforded protection under the following State Environmental Planning Policies:
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	<u>State Environmental Planning Policy (Biodiversity and Conservation) 2021 Chapter 6</u> As the site is located within the mapped Foreshores and Waterways Area, Chapter 6 applies. Several clauses are particularly relevant including: • Clause 6.28 (g) and (h): When determining whether to grant consent for development in this area, the consent authority must consider: ○ <i>(g) whether the development protects or enhances terrestrial and aquatic species, populations and ecological communities, including by avoiding physical damage to or shading of aquatic vegetation; and</i> ○ <i>(h) whether the development will protect, maintain or rehabilitate watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity.</i> • Clause 6.7(2): ○ <i>Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—</i> <i>(a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development.</i> <u>Resilience and Hazards SEPP Chapter 2 Part 2.2 Division 1 Coastal Wetlands and Littoral Rainforests</u> • Clause 2.7(4): ○ <i>A consent authority must not grant consent for development referred to in subsection (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.</i> Given the overshadowing impacts to the mangroves, CPHR raises concern that the proposal is inconsistent with the above-mentioned SEPP clauses. Recommended action: Given the potential for significant long-term impacts and ecological harm to mangrove within this ecologically important wetland: • The Department of Primary Industries and Regional Development - Fisheries (DPIRD - Fisheries) should be consulted. • Changes to the proposal, such as reducing building heights to mitigate shading impacts on the mangroves, is likely warranted. The extent and nature of such modifications should be guided by DPIRD - Fisheries assessment and expertise. • An assessment demonstrating that the development is consistent with the above-mentioned SEPP clauses.
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	<i>Extent and Timing</i>	Pre-determination
2.	<i>BDAR – indirect impacts (shading impacts to threatened species)</i>	In addition to the above, the mangroves affected by the proposed overshadowing are likely to provide habitat for a number of threatened fauna species. Plant Community Type (PCT) 4091 is associated with a range of predicted threatened species. Under the Biodiversity Offsets Scheme (BOS), all impacted threatened species habitat must be assessed as part of the Biodiversity Development Assessment Report (BDAR), including for indirect impacts. The assessment has only discussed impacts from shading on vegetation communities. However, threatened fauna species, particularly shorebirds and wetland-dependent birds, are likely to be impacted by the shaded mangrove habitat. Recommended action: • The BDAR should be updated to include a comprehensive list of threatened fauna species predicted to occur within the areas affected by shading. • All predicted threatened species potentially impacted by the proposed shading must be assessed in accordance with the Biodiversity Assessment Method 2020 (BAM), including consideration of Serious and Irreversible Impacts (SAII) where applicable.
	<i>Extent and Timing</i>	Pre-determination
3.	<i>BDAR – vegetation validation</i>	Additionally, it appears that no field-based vegetation survey was undertaken to confirm the plant community types (PCTs) within the shaded portion of the wetland. There is a possibility that the affected area includes not only PCT 4097 but also patches of PCT 4091. Recommended action: • A vegetation validation survey may be necessary to accurately determine the PCTs within the impacted area unless previous ground-truthed surveys or high-resolution aerial imagery have already been used. If relying on existing data, the sources must be clearly referenced and the methodology justified within the BDAR.
	<i>Extent and Timing</i>	Pre-determination
4.	<i>BDAR - overshadowing assessment</i>	The BDAR currently compares the shading impacts of the SSD proposal against those of the Development Control Plan (DCP) scheme. Recommended action: • The BDAR should be revised to assess and discuss shading impacts solely in relation to the SSD proposal, without reference to the DCP scheme. • As indicated above DPIRD - Fisheries should be consulted to provide expert input on the acceptability of the shading impacts to mangroves.
	<i>Extent and Timing</i>	Pre-determination

5.	<i>BDAR - lighting impacts</i>	The BDAR acknowledges that the proposed development has the potential to impact migratory birds and microbats due to artificial lighting. Indirect impacts such as light spill into the sensitive Ermington Bay wetland must be addressed and mitigated appropriately. The BDAR indicates that a 'light management plan' will be implemented to manage these impacts. It also proposes that monitoring and compliance auditing be undertaken by a qualified wildlife ecologist or ornithologist, with light spill measurements conducted by a lighting consultant. Table 40 of the BDAR references multiple rows relating to artificial lighting, each with varying risk ratings. Recommended action: • The BDAR must include a list of threatened fauna species likely to be affected by artificial lighting in the impacted wetland area and demonstrate how lighting impacts to these species will be avoided, minimised, or mitigated. • Lighting impacts to threatened species must be assessed in accordance with the BAM, including consideration of SAIL where relevant. • Lighting design must be developed in consultation with an appropriately qualified and experienced lighting consultant. • The lighting strategy should align with the following guidance documents: ○ <i>National Light Pollution Guidelines for Wildlife (Migratory Shorebirds)</i> ○ <i>Industry Guidelines for Avoiding, Assessing and Mitigating Impacts on Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) Listed Migratory Shorebird Species</i> ○ The artificial lighting-related risk assessment in Table 40 of the BDAR. • The proposed Light Management Plan referenced in the BDAR should be submitted as part of this SSD lodgement. It must include details of proposed monitoring and compliance auditing procedures, responsible personnel, and adaptive management actions. • Table 40 in the BDAR should be revised to: ○ reflect a consistent and evidence-based risk assessment of artificial lighting ○ clearly outline mitigation measures to be implemented in response to the above requirements.
	<i>Extent and Timing</i>	Pre-determination
6.	<i>BDAR – potential for bird collision</i>	The BDAR has not adequately addressed the risk of bird collision with the proposed buildings. The external façades incorporate extensive areas of glass with minimal recession, creating a high potential for bird strikes. This issue is particularly important given the site's proximity to the Parramatta River and the ecologically

		significant Ermington Bay wetland, both of which support migratory and resident bird species. Reducing bird collision risk is a critical design consideration that must be integrated into the project. The development must demonstrate how building design, materials, and treatments have been selected to mitigate this risk. Recommended action: • A qualified and experienced ecological or avian consultant should be engaged to assess the potential for bird collisions and recommend mitigation measures. This assessment should consider, but not be limited to: ○ use of patterned or UV-reflective glass (birds can detect UV light) ○ application of green walls or façade treatments to break up large reflective surfaces ○ architectural modifications that reduce mirror-like or see-through effects of glass. • The BDAR should be updated to: ○ demonstrate how the proposed building design and materials minimise bird collision risk ○ include consideration of any threatened bird species likely to be impacted ○ ensure threatened species predicted to be impacted are considered in line with the BAM (2020), including for SAI where applicable.
	<i>Extent and Timing</i>	Pre-determination
7.	<i>BDAR mitigation measures – Vegetation Management Plan and Trigger Action Response Plan</i>	The BDAR recommends the preparation of a Vegetation Management Plan (VMP) for the retained remnant vegetation and further notes that a Trigger Action Response Plan (TARP) should form part of the VMP. However, the current BDAR lacks sufficient detail regarding the specific areas to be covered by the VMP and TARP. Recommended action: • The VMP and TARP should be submitted as part of this SSD application rather than post consent to allow for review and integration into consent conditions. • The BDAR is to be updated to clearly specify the area of the proposed VMP, including maps. • The VMP must include the areas intended in the BDAR, as well as the 'riparian landscaping' within the Public Open Space Park (OS3) shown in the Landscape Design Report. • The TARP should be prepared in consultation with DPIRD - Fisheries Fisheries as recommended in the BDAR.
	<i>Extent and Timing</i>	Pre-determination

8.	<i>BDAR – Chapter 6 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)</i>	Table 47 in the BDAR incorrectly cites the wording for clauses 6.7, 6.8 and 6.9 of Chapter 6 in the Biodiversity and Conservation SEPP. Recommended action: Update Table 47 in the BDAR to reflect the correct wording of clauses 6.7, 6.8 and 6.9.
	<i>Extent and Timing</i>	Pre-determination
9.	<i>BDAR – Chapter 2 of Resilience and Hazards SEPP</i>	The BDAR addresses Chapter 2 of the Resilience and Hazards SEPP and concluded that clause 2.7 does not apply. However, as ‘harm to marine vegetation’ includes preventing light from reaching marine vegetation (Part 7 Division 4 of the FM Act) this clause is applicable due to the extensive shading proposed to marine vegetation mapped as coastal wetland. Recommended action: Update the BDAR to reflect that clause 2.7 of the Resilience and Hazards SEPP applies due to the potential harm to marine vegetation from shading.
	<i>Extent and Timing</i>	Pre-determination
10.	<i>Arboricultural Impact Appraisal and Tree Protection Plan</i>	The Arboricultural Impact Assessment report (AIA) does not consider the SSD. Instead, it considers the proposal under the local infrastructure (DA/75/2025) that was assessed by the City of Parramatta Council. Recommended action: - An updated AIA and Tree Protection Plan (TPP) should be provided. This updated documentation must exclude any trees already approved for removal under DA/75/2025, and instead focus solely on the trees within the SSD site (and those directly adjacent) that are required to be retained under DA/75/2025. - The updated AIA must demonstrate how these trees will be viably retained and must include a TPP and Tree Protection Specification prepared in accordance with <i>Australian Standard AS 4970–2025 – Protection of Trees on Development Sites</i>.
	<i>Extent and Timing</i>	Pre-determination

Flood Risk Management

Key Assessment Issues

11.	<i>FIRA</i>	The FIRA sets out flood behaviour and impact and provides risk management measures appropriate for this development. However, consideration should be given to locating driveways away from hazardous flooding in the Probable Maximum Flood (PMF). In particular, Building B3 may need further consideration.
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		Recommended action: The FIRA should provide a hazard map for the PMF event and show the location of the proposed driveway for each building.
	<i>Extent and Timing</i>	Pre-determination
12.	<i>FERP</i>	Recommended action: CPHR recommends that the NSW SES be consulted for advice on the FERP.
	<i>Extent and Timing</i>	Pre-determination

End of submission