

David Schwebel

From: Anthony Pizzolato
Sent: Friday, 4 June 2021 5:03 PM
To: David Schwebel
Cc: Fiona Christiansen; Andrew Jackson
Subject: RE: Request for SEARs input - Elizabeth Enterprise Estate Stage 1 (SSD-19618251)

Dear David,

Thank you for the opportunity to provide feedback on a request for SEARs for the proposed Elizabeth Enterprise Estate Stage 1 (SSD-19618251) situated at No.1669 to 1723 Elizabeth Drive, Badgerys Creek. The Planning Partnership Office (PPO) is responsible for preparing the planning framework for the Western Sydney Aerotropolis including the Badgerys Creek Precinct which the subject site forms a part of.

This feedback addresses the proposed development and concept plan as outlined in the scoping report with regard to:

- The Environmental Planning and Assessment Act and Regulations
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- The Western Sydney Aerotropolis Plan
- The Western Sydney Aerotropolis Draft Precinct Plan
- Western Sydney Aerotropolis Development Control Plan (Phase 1)

EPA Act and Regs

- Permissibility of SSD development - The subject site is zoned a mixture of Enterprise and Environment and Recreation. The proposed development in its current layout is generally consistent with the zoning of the site. However it appears that a portion of proposed building No.5 is located within the Environment and Recreation zone. The PPO suggest this building and associated works be sited so that it is entirely within the Enterprise zone.
- Development contributions - Clause 271 of the EPA Regs state that DAs must not be determined by the consent authority in the Aerotropolis unless a contributions plan has been approved. A Special Infrastructure Contributions (SIC) and local Section 7.12 plan have been prepared and placed on public exhibition by the NSW Government and Penrith and Liverpool Councils respectively. However, neither of these plans have been finalised meaning that there is no contributions plan currently in place for the Aerotropolis and therefore development applications cannot be determined.
- Consistency with the Western Sydney Aerotropolis Plan (WSAP) and precinct plan - Section 275C of the of the EP&A Regs stipulates that any applications that are submitted are to be accompanied by a report demonstrating consistency with both the WSAP any precinct plan. As outlined under the draft Precinct Plan heading below, there are aspects of the proposed development outlined in the scoping study which are inconsistent with the draft Precinct Plan. Despite the precinct plan being in draft form, substantial consideration and weighting has to be given, as it has been placed on public exhibition and submissions are being considered.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 (Aerotropolis SEPP)

The Aerotropolis SEPP was made in October 2020 and applies to the whole of the Western Sydney Aerotropolis. The Aerotropolis SEPP has rezoned all land in the initial precincts including the Northern Gateway which the subject site forms a part of.

- Land use zones – the Aerotropolis SEPP has rezoned the subject site to a mixture of Enterprise and Environment and Recreation. The Enterprise zone is a flexible zone that allows for a wide range of employment uses and the land uses outlined in the scoping study are generally consistent with this zone. As identified above, there is a minor incursion into the Environment and Recreation zone, which is also flood prone and therefore considered not suitable for urban development.

- Statutory weight of the precinct plan – Clause 41 of the Aerotropolis SEPP establishes the requirement that a consent authority must be satisfied that a development is consistent with a precinct plan while clause 42 establishes a pathway for development to progress where there is no precinct plan and the consent authority has considered certain criteria. These clauses give the precinct plan statutory weight, and while the precinct plan has not been finalised it should be given significant consideration and weighting particularly given that the plans have progressed through a period of public exhibition and submissions received are currently being considered.
- Flooding – The Aerotropolis SEPP identifies parts of the site as being within the 1 in 100 year flood planning level. These areas generally align with parts of the site that have rezoned to Environment and Recreation. The PPO has relied on the best available information provided by Council to identify areas that are flood prone. Therefore any development of the site must align with this.
- Design excellence – the Aerotropolis SEPP establishes a framework for achieving design excellence. Development of the scale outlined in the scoping report would meet the criteria for a design review panel (Clause 33) and also be subject to an architectural design competition (Clause 34). Matters for design excellence consideration are detailed in Clause 35 and would require attention by the applicant should the proposal progress.
- Aviation safeguarding – The subject site is located in close proximity to the Western Sydney Airport means that controls relating to airport safeguarding are relevant to the site. These are covered in Part 3 of the Aerotropolis SEPP:
 - Clause 19 Aircraft noise
 - Clause 20 Building wind shear and turbulence
 - Clause 21 Wildlife hazards
 - Clause 22 Wind turbines
 - Clause 23 Lighting
 - Clause 24 Airspace operations
 - Clause 25 Public safety

The Western Sydney Aerotropolis Plan (WSAP)

The WSAP was finalised in October 2020 and establishes the strategic framework to guide development in the Aerotropolis. The WSAP outlines broad objectives

- Objective 1 An accessible and well connected Aerotropolis
- Objective 2 High-value jobs growth is enabled, and existing employment enhanced
- Objective 3 Safeguard airport operations
- Objective 4 A landscape-led approach to urban design and planning
- Objective 5 A sustainable, low carbon Aerotropolis that embeds the circular economy
- Objective 6 A resilient and adaptable Aerotropolis
- Objective 7 Infrastructure that connects and services the Western Parkland City as it grows
- Objective 8 A collaborative approach to planning and delivery
- Objective 9 Diverse, affordable, healthy, resilient and well-located housing
- Objective 10 Social and cultural infrastructure that strengthens communities
- Objective 11 Great places that celebrate local character and bring people together

Any proposal for the subject site would need to demonstrate how the proposed development gives effect to each of these 11 objectives, including outlining how any aspects of the proposed plans may differ from the planning framework for the area, to better achieve these objectives.

Further to the above, the development shall demonstrate how it has been designed for Country, such as: Connecting with Country and Caring for Country.

The Western Sydney Aerotropolis draft Precinct Plan

The Western Sydney Aerotropolis draft Precinct Plan (draft Precinct Plan) was placed on a period of public exhibition from December 2020 until 12 March 2021. The draft Precinct Plan complements the Aerotropolis SEPP by providing the finer grain detail to guide development including identification of additional open space areas and the local street network.

- Weighting of a draft plan – The consideration and weighting to be given to a draft plan varies depending on what stage it has reached in the planning process. Given the draft plans have been exhibited and the PPO is currently considering issues raised in submissions, the PPO is of the view that a relatively higher weighting and consideration of the plans is required by the Proponent. Furthermore, the PPO notes there is planning case law that is relevant to this matter.
- Open space – the draft Precinct Plan proposes an open space network for the subject site. The proposed development does not include these open space areas, presenting a plan with less than what is proposed in the draft Precinct Plan (linear park along the sites northern edge and square urban park along the southern boundary).
- Floor space – The draft Precinct Plan does not identify FSRs for the Enterprise zone. The effective amount of floor space allowed is controlled by other measures such as site coverage, building setbacks, open space, local road network, etc. The Proponent is to demonstrate how the amount of floor space that would be enabled by the draft Precinct Plan is achieved, as the portion of the site identified as developable is less in the draft Precinct Plan. If the floor space proposed is different to what would be allowed by the draft Precinct Plan, this would require some additional consideration of the cumulative infrastructure requirements to support development on the site and around the precinct.
- Block size – the draft precinct plan identifies 150m by 150m block sizes as suitable for the Enterprise zone. The rationale for these block sizes is that they maintain a level of permeability in particular for pedestrians to easily be able to walk around the precinct with points of interest not too far away. The Proponent shall demonstrate how the proposal meets these requirements.
- Cut and fill – the report identifies that bulk earthworks are required, however the extent of the works are not stipulated. As such, the Proponent shall provide such details, having regard to the draft Precinct Plan which seeks to deliver a landscape lead approach to development in the Aerotropolis which includes minimising the amount of cut and fill.
- Heritage – However the Draft Aboriginal and Non-Aboriginal Cultural Heritage Assessment prepared to support the draft Precinct Plan does identify a potential local heritage item, noting the subject site has also been identified as being of Aboriginal cultural sensitiveness.

Western Sydney Aerotropolis Development Control Plan (Phase 1)

- Section 2.3.2 and 2.4.2 of the DCP has the following objectives for the Wianamatta-South Creek precinct and Badgerys Creek precinct respectively, and the proposal should address if it is consistent with these objectives.

In summary, the proposal seeks some departures from the draft precinct plans for the Aerotropolis. The PPO is of the view the proposal should be amended to comply with the draft precinct plans. Furthermore, any departure from draft Precinct Plan or WSAP – as discussed above, are to be justified. Any justification shall adequately outline how the departure can deliver a better social, environmental and economic outcomes than would be the case if the site were developed in accordance with the WSAP and draft precinct plans.

Please reach out if you have any questions regarding the above.

Regards,

Anthony Pizzolato

Manager, Aerotropolis / Planning Partnership

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Please consider the environment before printing this email.

From: David Schwebel <David.Schwebel@planning.nsw.gov.au>

Sent: Tuesday, 18 May 2021 10:15 AM

To: PPO Engagement <engagement@ppo.nsw.gov.au>

Subject: Request for SEARs input - Elizabeth Enterprise Estate Stage 1 (SSD-19618251)

Dear Sir/Madam

The Department of Planning, Industry and Environment has received a request for Secretary's Environmental Assessment Requirements (SEARs) for the Elizabeth Enterprise Precinct Stage 1. The proposed development is a State Significant Development under the Environmental Planning and Assessment Act 1979.

You are invited to provide input into the SEARs for the proposal including details of any key issues and assessment requirements by 4 June 2021.

The SEARs request can be viewed on the Department's website at <https://www.planningportal.nsw.gov.au/major-projects/project/41891>.

If you have any enquiries, please contact me on 9274 6400 or david.schwebel@planning.nsw.gov.au.

Kind regards,

David Schwebel

Planning Officer, Industry Assessments

Planning & Assessment | Department of Planning, Industry and Environment

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