



Office of
Environment
& Heritage



Your reference: SSD 6123
Our reference: DOC14/8103
Contact: Marnie Stewart 9995 6868

Mr Chris Ritchie
A/Director
Industry, Key Sites and Social Projects
Department of Planning and Infrastructure
GPO Box 39
Sydney NSW 2001



Dear Mr Ritchie

I refer to your letter received on 29 January 2014 inviting comment from the Office of Environment and Heritage (OEH) on the exhibited development application (DA) for the University of Sydney Campus Improvement Program State Significant Development (SSD 6123).

In regard to the DA, OEH provides the following advice on Aboriginal cultural heritage.

Aboriginal Cultural Heritage

The Director General's Environmental Assessment Requirements (DGRs) state:

8. Where relevant, the EIS shall address Aboriginal heritage in accordance with the Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation 2005 and Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010.

OEH notes that the applicant has prepared an Aboriginal Heritage Due Diligence Report, which is inconsistent with the DGRs. The Department is advised that due diligence is a voluntary process that provides a legal defence against prosecution should Aboriginal objects that were not anticipated to be present be uncovered and impacted during the course of works. It is not an archaeological and cultural assessment and does not provide the information necessary to inform the environmental impact assessment. OEH therefore recommends that the assessment is carried out in accordance with the DGRs.

In regard to specific matters, OEH notes that one precinct has been identified as requiring subsurface testing in order to identify if objects are present and one further precinct has been identified as a cultural precinct. Both of these precincts also have recommendations for archaeological monitoring. It should be noted that OEH does not support monitoring and considers that a robust assessment at this stage should identify the presence or absence of objects.

OEH also notes that the report references the "Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation 2005 Office of Environment and Heritage (OEH) for due diligence". The Department is advised that the 2005 guidelines are not a due diligence assessment. Due diligence as a legal concept for Aboriginal cultural heritage did not come into effect until the 2010 amendments to the *National Parks and Wildlife Act 1974* (NPW Act) and only relates to requirements for approvals required under Section 90 of the NPW Act. This approval is

not required for State Significant Development under the *Environmental Planning and Assessment Act 1979*.

If you have any queries regarding this advice please contact Marnie Stewart, Senior Regional Operations Officer, on 9995 6868.

Yours sincerely

S. Harrison 25/02/14

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