

29 October 2024

Our ref: 23SYD5432

Celestino C/- Ben Hawkins  
642 Great Western Highway,  
Pendle Hill  
NSW 2145

Attention: Ben Hawkins

Dear Ben

**565-601 and 601a Luddenham Road Scoping Report, Ecological Statement**

Eco Logical Australia Pty Ltd was engaged on behalf of Celestino Developments SSP Pty Ltd (the Proponent) to prepare this Ecological Statement to accompany the application for the Secretary's Environmental Assessment Requirements (SEARs) for the Proposed State Significant Development Application (SSDA) at 565-601 and 601a Luddenham Road, Luddenham (the site). This letter specifically relates to the following legislation and its application to the proposed SSDA:

- *Biodiversity Conservation Act 2016* (BC Act)
- *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)
- *Water Management Act 2000* (WM Act).
- State Environmental Planning Policy (Precincts Western Parkland City 2021) (SEPP)
  - Western Sydney Aerotropolis Precinct Plan 2022
- Western Sydney Aerotropolis Development Control Plan 2022
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- Cumberland Plain Conservation Plan 2022

Additional assessments to be completed in support of an Environmental Impact Statement (EIS), include the following:

- Biodiversity Development Assessment Report (BDAR)
- Riparian Assessment and Ecological Assessment of Farm Dams
- Dam Dewatering Plan
- Vegetation Management Plan
- Wildlife Risk Assessment and Management Plan.

## DESCRIPTION OF THE PROPOSAL AND ASSESSMENT APPROACH

The proponent intends to submit a SSDA under Part 4.7 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) for the proposed development.

The SSDA 1 will seek Concept approval for the site-wide strategies and staged development of the site, as well as a detailed proposal for the first stage of development in accordance with Section 4.22 of the EP&A Act. The Concept Proposal comprises the following:

- Concept Urban Structure Plan based on precinct-wide approach for development of super lots based on the following site-wide strategies:
  - Indigenous Design Framework – Connection to Country
  - Integrated Water Cycle Management Strategy
  - Landscape Concept Plan
  - Concept civil and Bulk earthworks Strategy
  - Biodiversity and Ecology
- Staging Strategy/Development Staging Plan setting out the development stages, and
- Requirements for assessment of future development applications for the remaining stages.

The Stage 1 works will primarily be located on the part of the land zoned MU: Mixed Use and ENZ: Environment and Recreation (on the eastern portion of the site) pursuant to the Western Parkland City SEPP and will include detailed design of the following:

- Subdivision layout of super lots
- Civil and infrastructure works, including temporary works associated with roadworks and IWCM
- Earthworks and retaining walls
- Landscaping and streetscape
- Provision and augmentation of services
- Associated ancillary works.

The proposed development also seeks approval to remove native vegetation where affected by works and to realign and naturalise riparian corridors within the site, noting the majority of existing vegetation is in poor condition and existing waterways have been heavily modified by historical agricultural land use. Design options to retain native vegetation and riparian corridors have been investigated. The impacts on development outcomes relative to the retention value of existing assets is considered to have no net environmental benefit (e.g. one design option would require significant additional import of fill necessitating greater land disturbance elsewhere to procure this material, while others would require compromises in road design safety). Further, the proposed development will incorporate embellishment of open spaces and riparian corridors with the intent to deliver better soil conditions, vegetation planting and more robust riparian corridors than existing. Whilst most native vegetation is proposed to be removed, an approximate 0.71 ha patch of native vegetation with some biodiversity retention values, due to the presence of hollow-bearing trees, has been identified for retention and the proposed civil design proposes no bulk earthworks within this area.

## GENERAL BIODIVERSITY OF THE SITE

The site comprises 296.89 ha (excluding the Sydney Metro link) of land in the Western Sydney Aerotropolis and is located within the suburb of Luddenham, in the Penrith LGA. The site comprises exotic grasses, cleared areas (gravel access tracks), planted native vegetation and fragmented remnant native vegetation. The site also contains numerous streams and human made dams. The majority of the vegetation is in poor condition. The site has an extensive history of use for agricultural purposes including ongoing cattle grazing and improved pasture. This has contributed to the overall poor condition of the vegetation on the site.

The site also contains existing human-made structures such as internal roads, a Water Treatment Plant in the south-west and the Sydney Metro Western Sydney Airport corridor in the eastern portion of the site. The Warragamba Prospect Water Supply Pipeline is located adjacent to the northern boundary of the site.

The site is mapped as excluded land to which the Cumberland Plain Conservation Plan does not apply.

Biodiversity assessments which have been undertaken to date include, but are not limited to:

- Riparian report (ELA, 2017)
- Flora and Fauna Assessment Report (ELA, 2017)
- Vegetation Management Plan (ELA, 2018)
- Preliminary Review of Riparian Consistency (ELA, 2024)
- Ultrasonic bat call analysis report (ELA, 2024)
- EPBC Act Referral (ELA, 2024)
- Biodiversity Development Assessment Report (ELA, 2024)
- Green and Golden Bell Frog Expert Report (ELA, 2024).

## LEGISLATIVE CONTEXT

### *ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999 (EPBC ACT)*

The EPBC Act aims to protect Matters of National Environmental Significance (MNES) including wetlands of international importance, threatened species and communities and listed migratory species. An action that may or is likely to have a significant impact on MNES should be referred to the Commonwealth to determine whether it is a Controlled Action that requires approval from the Commonwealth.

A review of the MNES within or in proximity to the site has been completed, and identified the following:

- *Gallinago hardwickii* (Latham's Snipe) (foraging within the site)
- *Calidris acuminata* (Sharp-tailed Sandpiper) (foraging within the site)
- *Haliaeetus leucogaster* (White-bellied Sea Eagle) (flying over the site)
- *Tringa nubularia* (Common Greenshank) (record from 2006)
- *Pteropus poliocephalus* (Grey-headed Flying-fox) (likely to utilise the site as part of foraging network)

- Orchard Hills Defence Land (in proximity).

No other threatened ecological communities, flora, fauna or migratory species listed under the EPBC Act were identified in the site during survey. Self-assessments consistent with application of the Significant Impact Criteria Guidelines 1.1 (CoA 2015) were completed and determined that the proposed action was unlikely to constitute a significant impact to any MNES. Celestino are considering an assessment bilateral referral to the Commonwealth for the proposed action.

#### *BIODIVERSITY CONSERVATION ACT 2016 (BC ACT)*

The purpose of the BC Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development. Development that has a significant impact on biodiversity values as set out in Part 7 of the BC Act and Part 7 of the *Biodiversity Conservation Regulation 2017* are required to undertake an assessment in accordance with the Biodiversity Assessment Method (BAM) and submit a Biodiversity Development Assessment Report (BDAR).

The proposed development will be assessed under Part 4.7 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). For development applications assessed under Part 4.7 of the EP&A Act, the Biodiversity Offsets Scheme is automatically triggered, and either a BDAR or a BDAR waiver are required to accompany the submission of the SSDA.

ELA has completed ecological surveys across the development footprint, specifically:

- Vegetation validation to Plant Community Types consistent with the East Coast Plant Community Types or State Vegetation Type Mapping and completion of full vegetation integrity plots
- Validation of any threatened ecological communities listed under the BC Act or EPBC Act
- Targeted survey for the following species
  - Threatened microchiropteran bats
  - *Litoria aurea* (Green and Golden Bell Frog)
  - Migratory birds
  - Raptors.

Field survey confirmed the presence of

- PCT 3320 Cumberland Shale Plains Woodland (conforms to Cumberland Plain Woodland in the Sydney Basin Bioregion – critically endangered under the BC Act)
- PCT 4023 Coastal Valleys Riparian Forest (conforms to Swamp Oak Floodplain Forest of the NSW North Coast, Sydney Basin and South East Corner Bioregions - endangered under the BC Act)
- PCT 3975 Southern Lower Floodplain Freshwater Wetland – no associated threatened ecological community
- *Myotis macropus* (Southern Myotis)
- *Miniopterus orianae oceanensis* (Large Bent-winged Bat).

Due to the presence of numerous threatened ecological values, the proposed development is not suitable for assessment using a BDAR waiver. Therefore, ELA is preparing a BDAR consistent with the BAM for the proposed development.

#### *WATER MANAGEMENT ACT 2000 (WM ACT)*

The WM Act is the sustainable and integrated management of the state's water for the benefit for both present and future generations. If a 'controlled activity' is proposed on 'waterfront land', an approval is required under the *Water Management Act* (s91). 'Controlled activities' include:

- the construction of buildings or carrying out of works (with the exception of land based private dwellings, a dual occupancy building or related ancillary facilities);
- the removal of material or vegetation from land by excavation or any other means;
- the deposition of material on land by landfill or otherwise; or
- any activity that affects the quantity or flow of water in a water source.

The proposed development would require a controlled activity approval, as it proposes to realign a 3<sup>rd</sup> order stream which runs through the site and to undertake dam dewatering. To facilitate the controlled activity approval, ELA will prepare a Dam Dewatering Plan and a Riparian Assessment Report which details consistency with the controlled activity approval guidelines including riparian encroachment and offset and permissible activities within the future riparian corridor.

A Vegetation Management Plan will be prepared that will outline the revegetation requirements of the future riparian corridor.

#### *FISHERIES MANAGEMENT ACT 1994 (FM ACT)*

The FM Act is the principal piece of legislation protecting aquatic habitat in NSW. The act aims to conserve fish stocks, key fish habitat, aquatic vegetation, and threatened species, populations and communities. The proposed development involves dredging and realigning of the stream by the developer and requires a permit under s201 of the FM Act.

#### *STATE ENVIRONMENTAL PLANNING POLICY (PRECINCTS WESTERN PARKLAND CITY 2021)*

The site is subject to the Western Sydney Parklands SEPP and is listed as part of a key site, Sydney Science Park. The site forms part of the Northern Gateway Precinct under the Western Sydney Aerotropolis Precinct Plan and Chapter 4 applies to the proposed development. A small area of the site is mapped as containing high biodiversity values on the Biodiversity Values Map and is subject to the provisions of clause 4.19 and 4.25 of the SEPP.

#### **Western Sydney Aerotropolis Precinct Plan 2022**

The precinct plan provides further direction for development within the Aerotropolis. The Western Aerotropolis Precinct Plan establishes the strategic vision and general objectives, proposed land uses, performance criteria for development of land and the approach to both infrastructure and water cycle management. The site is located within the 8 km Wildlife buffer zone as such, a Wildlife Management Plan will be prepared for the development.

## WESTERN SYDNEY AEROTROPOLIS DEVELOPMENT CONTROL PLAN 2022

The Western Sydney Aerotropolis DCP provides the planning, design and environmental objectives and controls for the future preparation of development applications and Masterplans. Section 2.3 Stormwater, Water Sensitive Urban Design and Integrated Water Management applies to the site but will be addressed in the Water Management Strategy. Section 2.4.2 Protection of Biodiversity relates to the site. Its objectives are:

- Ensure consistency with the requirements of the relevant biodiversity certification for the site where applicable.
- Ensure construction and operational works avoid and minimise impacts to native vegetation and ecological communities.
- Retain and protect native vegetation areas, particularly those with Aboriginal cultural value, and provide for areas with a size and configuration that will allow for the survival and improvement of the native vegetation communities.
- Implement the Sydney Region Growth Centres Biodiversity Certification Order where applicable.
- Implement the Cumberland Plain Conservation Plan (CPCP) where applicable.
- Manage fire risk by regimes that protect biodiversity and habitats in the long term.

The site is not located within land subject to biodiversity certification. The site is mapped as excluded land under the CPCP.

## STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The Minister for Planning and Public Spaces announced that on 1 March 2022 the commencement of the new Biodiversity and Conservation SEPP. The Biodiversity and Conservation SEPP consolidates 11 SEPPs into one new theme-based focus SEPP. The following chapters are relevant for this project:

- Chapter 2 Vegetation in non-rural areas.
- Chapter 6 Water Catchments
- Chapter 13 Strategic Conservation Planning

Chapter 2 Vegetation in non-rural areas applies to development that does not require consent. As the proposed works requires consent under the EP&A Act, Chapter 2 does not apply. Chapter 6 Water Catchments applies to the development as the land is located within the Hawkesbury-Nepean Catchment. Development controls under Section 6.6 and 6.7 relating to aquatic ecology apply to the development.

## CUMBERLAND PLAIN CONSERVATION PLAN 2022

The Cumberland Plain Conservation Plan (the CPCP) is one of the largest strategic conservation plans to be undertaken in Australia. It identifies strategically important biodiversity areas within the Cumberland subregion to offset the biodiversity impacts of future urban development to facilitate a green and liveable city. The CPCP provides for biodiversity certification within certain land categories. Works in certified-urban capable or major transport corridor land does not require further site by site biodiversity

assessment or approval under the BC Act, if consistent with the CPCP and its approvals. The site is located within the CPCP Area, within excluded land (non-certified).

Regards,

A handwritten signature in black ink, appearing to be 'Alex Gorey', written over a horizontal line.

Alex Gorey

Associate Ecologist and BAM Accredited Assessor BAAS#22003