



27 February 2019

Mr Kane Winwood
Team Leader, Industry Assessments
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

By email: Kane.Winwood@planning.nsw.gov.au

Dear Mr Winwood,

1111-1141 Elizabeth Drive, Cecil Park – State Significant Development application

Introduction

Thank you for the opportunity to provide comments to the proposed Elizabeth Drive Subdivision (**SSD 8859**) at 1111-1141 Elizabeth Drive, Cecil Park (**Site**).

The Development Application seeks approval from the Department of Planning & Environment (**DPE**) for enabling works to facilitate a mixed use development at the Site with indicative land uses including industrial, service station, fast food, large format retail and short-term accommodation.

Western Sydney Parklands Trust (**WSPT**) has a number of concerns in relation to SSD 8859, summarised as follows:

- SSD 8859 is not consistent with the applicable strategic planning framework for the Western Sydney Parklands (**Parklands**),
- The 2% of the Parklands proposed for 'Business Hubs' is already allocated and accounted for;
- The development of the Site would impede WSPT's ability to undertake its statutory functions, by preventing WSPT from developing the Parklands and therefore foregoing revenue streams it requires to operate the Parklands;
- Subdivision and development of the Site will defer acquisition and significantly increase acquisition costs; and
- SSD 8859 does not have regard for the required conditions, pursuant to the statutory framework, when proposing development on 'private land' within the Parklands.

The relevant '**Statutory Documents**' discussed in this submission are:

- The Western Sydney Parklands Act 2006 (**Parklands Act**);
- The State Environmental Planning Policy (Western Sydney Parklands) 2009 (**Parklands SEPP**); and
- The Plan of Management 2020 (**PoM 2020**), the Supplement to the PoM 2020 (**Supplement**) and the Plan of Management 2030 (**PoM 2030**).

In this submission, WSPT provides background information to the Parklands, as well as the consultation undertaken to date between WSPT and the proponent for SSD 8859. Key aspects of the Statutory Documents are explained including a justification for WSPT's concerns relating to SSD 8859, comments regarding the Environmental Impact Statement (**EIS**) prepared by the proponent are provided and the significant impact on WSPT's ability to carry out its statutory functions is detailed.

Western Sydney Parklands

The Western Sydney Parklands stretches 27 kilometres from Quakers Hill to Leppington covering 5,280 hectares through the three Local Government Areas of Blacktown, Fairfield and Liverpool. The Parklands is one of the largest urban parkland systems in Australia and internationally and has an existing catchment of approximately 2 million people.

In 2016/17, the Parklands hosted approximately 2.6 million visitors who took advantage of the outstanding community facilities, events and programs such as bush planting and maintenance. Under the long-term plan in the PoM 2030, approximately 2,000 hectares is allocated to Natural and Cultural Heritage Conservation.

Planning controls were imposed for land within the Parklands to enable WSPT to masterplan the Parklands in accordance with the functions of the Parklands Act and to provide a world class facility for the Western Sydney community. To fund the statutorily prescribed functions of WSPT, 2% of the land area was allocated for Business Hubs, as stated in PoM 2020, the Supplement and PoM 2030, in carefully-selected locations to generate an income for WSPT. At 2% of the Parklands, this level of Business Hub development is clearly an auxiliary land use, designed to support the Parklands core functions.

The Parklands is a place that offers diverse experiences, celebrates its natural qualities and creates an identity for local communities. Extensive engagement with the community and stakeholders has been undertaken in the detailed planning of a community facility that can be enjoyed by all. If the proposed development of the Site was included within the 2% of the Parklands allocated for Business Hubs as proposed by the EIS, it would reduce the funding capacity for the Parklands. Alternatively, if the proposed development was additional to the nominated 2% of the Parklands, the result would be an overdevelopment of the Parklands relative to the community's expectations.

Approval of SSD 8859 would not only diminish the ability of WSPT to fulfil its functions but also undermine the acquisition of lands by successive governments over the past 50 years and deprive the community of facilities that have been planned within the Parklands.

SSD 8859 Consultation

As you will be aware, WSPT provided a submission dated 13 November 2017 to the Request for Secretary's Environmental Assessment Requirements (**SEARs**) for SSD 8859 requesting that the applicant "*clearly demonstrate how the proposed development would adhere to the relevant statutory documents including the implementation of the objectives and vision for the Parklands, and the Land Use Framework.*" A copy of that submission is attached for ease of reference.

On 27 June 2018, AE Design Partnership presented the proposed development to WSPT explaining the Site features and development constraints. On that occasion, WSPT communicated concerns to AE Design Partnership that SSD 8859 appeared to lack consistency with the Statutory Documents, such that it is wholly incompatible with the overall planning framework, and that the Site was not considered for development as a Business Hub.

As SSD 8859 does not adequately address the concerns raised by WSPT in the letter dated 13 November 2017 and at the meeting with AE Design Partnership on 27 June 2018, WSPT expresses further concern in relation to SSD 8859.

Western Sydney Parklands Act 2006

The Parklands Act created the WSPT and established the functions of the WSPT. The Parklands Act provides for the creation of strategic planning documents for the Parklands, principally in the form of plans of management.

Whilst the Site is in private ownership and does not form part of the Parklands as defined in section 22(5) of the Parklands Act, the Parklands Act is relevant to SSD 8859 in the context of references in the Parklands SEPP to sections of the Act, and the requirement of WSPT "*to prepare and maintain a plan of management for the Parklands*", in accordance with section 23 of the Parklands Act.

Furthermore, section 15 of the Parklands Act contemplates the acquisition of land for the purposes of the Act. The Parklands Act provides a mechanism by which to incorporate the Site into the Parklands and enables strategic planning to be made in relation to the Site.

State Environmental Planning Policy (Western Sydney Parklands) 2009

In relation to the Parklands SEPP, the Site is included within 'Western Parklands' as per the Western Sydney Parklands Map. WSPT is of the view that SSD 8859 is inconsistent with several key clauses of the Parklands SEPP, as stated in the following table:

Parklands SEPP	WSPT comment
Clause 2 Aim of Policy "The aim of this Policy is to put in place planning controls that will enable the Western Sydney Parklands Trust to develop the Western Parklands into a multi-use urban parkland..."	The justification for the planning controls is to enable WSPT, not another party, to develop the Parklands, consistent with the Parklands SEPP. The EIS overlooks the nature and intent of this provision.

<p>(j) "allowing for interim uses on private land in the Western Parklands if such uses do not adversely affect the establishment of the Western Parklands or the ability of the Trust to carry out its functions as set out in section 12 of the Western Sydney Parklands Act 2006"</p>	<p>Further, the proposed development of SSD 8859 is not considered to be for "interim uses". The PoM 2020 and PoM 2030 describe Interim Land Uses as "Short term residential tenancies, vacant land, private land yet to be acquired." The EIS does not address the fact that the proposed development is unlikely to be considered an "interim land use" as that term is described in the PoM 2020 and PoM 2030.</p>
<p><u>Clause 12 Matters to be considered by the consent authority – generally</u></p> <p>"In determining a development application for development on land in the Western Parklands, the consent authority must consider such of the following matters as are relevant to the development:</p> <p>(a) the aim of this Policy, as set out in clause 2," (g) "the impact on the physical and visual continuity of the Western Parklands as a scenic break in the urban fabric of western Sydney"</p> <p>"(i) consistency with:</p> <p>(i) any plan of management for the parklands, that includes the Western Parklands, prepared and adopted under Part 4 of the Western Sydney Parklands Act 2006, or</p> <p>(ii) any precinct plan for a precinct of the parklands, that includes the Western Parklands, prepared and adopted under that Part,"</p>	<p>WSPT is concerned that SSD 8859 and the EIS do not address the conditions in clause 12 of the Parklands SEPP, because:</p> <p>In regards to clause 12(a) of the Parklands SEPP, the aim of the Policy is to enable WSPT to develop the Parklands, not another party.</p> <p>In regards to clause 12(g) of the Parklands SEPP, SSD 8859 would reduce the continuity of the Parklands as a scenic break along Elizabeth Drive.</p> <p>In regards to clause 12(i), sub-clauses (i) & (ii) of the Parklands SEPP, the EIS does not adequately address the applicable Plans of Management.</p> <p>SSD 8859 is not consistent with the PoM 2020 or PoM 2030 on the grounds that a Business Hub is not proposed where the Site is located, and the 2% of the Parklands allocated for business hubs is already planned elsewhere.</p> <p>A detailed response is provided in the Plan of Management section below.</p>
<p><u>Clause 17 Development on private land</u></p> <p>"Development consent must not be granted to development on private land in the Western Parklands unless the consent authority has considered the following:</p> <p>(a) whether the development will contribute to or impede the implementation of the aim of this Policy,</p> <p>(b) the need to carry out development on the land,</p> <p>(c) the imminence of acquisition of the land,</p> <p>(d) the effect of carrying out the development on acquisition costs,</p>	<p>Clause 5.3.2.1 of the EIS states "<i>The implications of the proposal have been discussed with the Western Sydney Parklands trust who raised no objection to the proposal in the context of this clause.</i>" WSPT refutes this statement and confirms that the applicant was instructed to confirm consistency with the Statutory Documents including the Parklands SEPP.</p> <p>In response to each sub-clause of clause 17 of the Parklands SEPP, WSPT submits:</p> <p>(a) The aim of the Parklands SEPP is to enable</p>

<p>(e) the effect of carrying out the development on the natural systems of the Western Parklands, (f) the cost of restoring those systems after the development has been carried out."</p>	<p>WSPT to develop the Parklands and SSD 8859 will impede WSPT's ability to fulfil this action as WSPT will not have control of the development outcome. The EIS does not address the nature or intent of this provision.</p>
	<p>(b) The EIS does not provide a "need to carry out development". The EIS refers to a "unique setting" however WSPT does not accept that the development could not be located elsewhere and achieve similar outcomes..</p> <p>(c) WSPT is advised by the acquisition authority that there is a history of communications with the owner's solicitor and the owner. Notwithstanding, previous contact is not a prerequisite to justify imminence of acquisition. Further detail is provided following this table.</p> <p>(d) Carrying out the development would significantly increase acquisition costs and thereby constrain the ability of WSPT to fulfil its functions prescribed by the Parklands Act. The Cost Investment Value Report by Altus Group (Appendix 1 to the Request for SEARs) estimated site works costs of \$12,033,669 and in relation to the Economic Impact, the EIS references an "Estimated \$150m in output and more than \$70m contribution to GDP". Capital expenditure of this magnitude would significantly impact the acquisition costs to the public acquisition authority.</p> <p>Further, WSPT expresses serious concern regarding the proposed subdivision of the Site which would also delay the imminence and expense of acquisition.</p> <p>(e) The 100 ecosystem credits to offset impacts, (as proposed in clause 6.1 of the EIS), to 2.35 ha of Forest Red Gum grassy woodland on flats of the Cumberland Plain, plus the various species credits required, is considered to indicate a significant environmental impact to the Parklands.</p>
	<p>(f) WSPT considers it unlikely that restoration of the natural systems can be achieved.</p>

In relation to the imminence of acquisition references in clause 17(c) of the Parklands SEPP, WSPT submits the following important points:

- It is estimated that over 96% of the Parklands is now in public ownership or owned by services or utility providers. Excluding two large parcels owned by Brickworks and Veolia (which have a land use consistent with the PoM 2030 long term outcome), a total of 109 hectares has been identified to be in private ownership, representing just 2% of the total Parklands.
- Over 120 hectares has been or will be transferred from the acquisition authority to WSPT between 2017 and 2019, indicating that the end of the acquisition program may be approaching.
- The Site is included within the remaining 109 hectares of private land which is anticipated to be acquired and transferred to WSPT.
- The normal lifespan of an industrial, large format retail or tourism building, similar to that proposed in SSD 8859 can be upwards of 30 years, significantly more than the estimated remaining timeframe for acquisition of private lands within the Parklands.

Plans of Management and Precinct Plans

Part 4 of the Parklands Act requires WSPT “*to prepare and maintain a plan of management for the Parklands.*” Since establishment of WSPT, the Plan of Management 2020, the Supplement and the Plan of Management 2030 (together, **Plans of Management**) have been implemented and adopted by the relevant Minister in 2011, 2014 and 2018, respectively.

WSPT is concerned that the EIS is selective in its approach to addressing the Plans of Management. Overall, the EIS claims that the Site is part of a designated Business Hub which is incorrect. The EIS also fails to address the primary feature of business hubs – that a maximum of 2% of the Parklands will be leased by WSPT to generate revenue for the ongoing development of new community facilities, environmental management, cultural events and programs and land management, for the benefit of the greater community.

We discuss each Plan of Management in further detail below and highlight our concerns that SSD 8859 and the EIS is not consistent with any of the Plans of Management.

Plan of Management 2020

Relevant clauses in PoM 2020

The PoM 2020 establishes the vision, principles and strategic directions (including objectives and outcomes) for management of the Parklands to 2020 and was adopted by the Minister for Western Sydney in January 2011.

The *Funding Context* of WSPT is described in Section 1.4 as follows:

“The Trust has been established as a self funded agency. To fully implement this Plan including developing facilities, programs and environmental initiatives, the Trust is developing an income stream of \$10 million per annum within the 10 year life of this Plan. In order to achieve this goal a significant portion of income will be derived from developing long term

leases for business purposes on 2 percent of its land over the long term to be able to deliver its mandate to create the largest parkland in Australia. The Trust will also supplement its income through recreation activities such as tourism, and venue and bike hire.”

Accordingly, the budget to undertake the statutory functions of WSPT is directly attached to the revenue achieved from long-term leases for business purposes of 2% of the Parklands.

Section 2.4 of the PoM 2020, ‘*Land Use Framework*’, identifies various land uses for the Parklands. The Land Use table on page 41 prescribes existing and long-term targeted areas of each land use category, including a long-term land use target for Business Hubs of 2% of the Parklands. This section of the PoM 2020 was intended to provide guidelines to WSPT as to how it should select any proposed Business Hubs in the Parklands, in collaboration with the relevant local Councils, and what criteria should apply to any proposed land use within those Business Hubs.

This section of the PoM 2020 details the following four criteria for identification of Business Hub locations:

1. Land uses should generate an appropriate commercial return and also add to the amenity of adjacent communities.
2. Land uses must generate additional employment and training opportunities for local and regional communities.
3. Development must be undertaken in a manner that will minimise the environmental impact of such development.
4. The development of Business Hubs will only be permitted to occur on sites with low environmental and recreational values.

(together, the **Criteria**).

WSPT concerns in respect of the EIS, SSD 8859 and PoM 2020

Clause 4.2 of the EIS states “*Proposal to demonstrate strategic merit behind addition of the site within 2% allocation.*” Inclusion of SSD 8859 within the 2% proposed for business purposes would reduce revenue received by WSPT and therefore impede its ability to perform the functions set out in the Parklands Act. WSPT is a non-budget-dependent agency.

The justification for developing 2% of the Parklands is that the revenue be allocated to maintain and enhance the Parklands in terms of facilities and events. SSD 8859 is contrary to the purpose of Business Hubs as any revenue generated from it would likely not be allocated to maintain and enhance the Parklands.

Clause 5.5.4.1 of the EIS states, when addressing the PoM 2020, “*It is noted that the proposed Elizabeth Drive Business Hub is consistent with all four criteria.*” However, the EIS does not provide any additional detail as to why the “Elizabeth Drive Business Hub”, is consistent with the Criteria. Any commercial return achieved by SSD 8859 would be received by the applicant and not directed towards maintenance and enhancement of the Parklands or add to the amenity of adjacent communities, as is suggested in Criteria 1 listed above. In regards to Criteria 3 and 4 stated above, it would appear that the 100 ecosystem credits, and various species credits, to be purchased by the applicant for SSD 8859 indicates a potentially significant environmental impact if the Site is developed.

Furthermore, clause 5.5.4.1 of the EIS states that "the Desired Future Character for the precinct clearly establishes the existing bushland and rural residential uses 'as an interim land use prior to precinct planning for future park needs'". The Site is located within Precinct 11 'Cecil Park North'. PoM 2020 provides, in regards to Precinct 11, that the *Land Use Opportunities* include Urban farming (interim), Bushland regeneration/conservation and Existing and future service. As SSD 8859 is not proposing any of these uses, SSD 8859 is not consistent with the precinct planning for Precinct 11. Furthermore, as discussed in more detail below, further precinct planning for Precinct 11 was undertaken and established in PoM 2030.

Section 2.4 of the PoM 2020 also states that "The Trust will also consult with relevant State Government agencies and others in identifying the Business Hubs" reflecting a considered masterplan process to determine the most appropriate sites for development of business uses. In relation to SSD 8859, the Site was proposed for development without any consideration of alternative, more appropriate sites within the upper limit of 2% of the Parklands.

WSPT considers that SSD 8859 is not consistent with PoM 2020, as it is not located within any proposed Business Hub, the proposed development does not meet any of the Criteria, and the proposed development does not fall into any of the suggested land use categories for the Precinct 11 in which it is located.

Supplement to the PoM 2020

The Supplement to the PoM was adopted in 2014 following extensive community and stakeholder consultation, and provides further details of WSPT's approach to asset development including specific locations of proposed Business Hubs.

Section 3.4 *Business Hub Locations and Potential Land Uses* details principles for selecting business hub sites and adds two additional criteria to the Criteria stated in the PoM 2020:

5. Business hubs are to be located to take advantage of existing and new infrastructure investments and assets, such as the Sydney metropolitan road network (eg. motorways) and existing and new utility services (eg. Bungarribee lead-in sewer).
6. Business hubs are to be located to complement existing and proposed centres and employment areas in Western Sydney. In line with this criteria, the highest value occupants of the business hubs will be businesses not only providing a good return to the Trust, but which also maximise local job-creation opportunities and economic activity to the region.

The EIS does not address the Supplement or the additional land use criteria at all. WSPT is of the view that SSD 8859 does not comply with the two additional criteria because it does not take advantage of any existing infrastructure, and it would not complement any existing or proposed centres in the area. Furthermore, SSD 8859 would not provide any return to WSPT.

The Supplement identifies the locations of various business hub sites. Figure 3 *Fairfield LGA Business Hubs* shows three business hub locations at Horsley West, Horsley Drive and Wallgrove Road. No business hub uses have been identified on the Site.

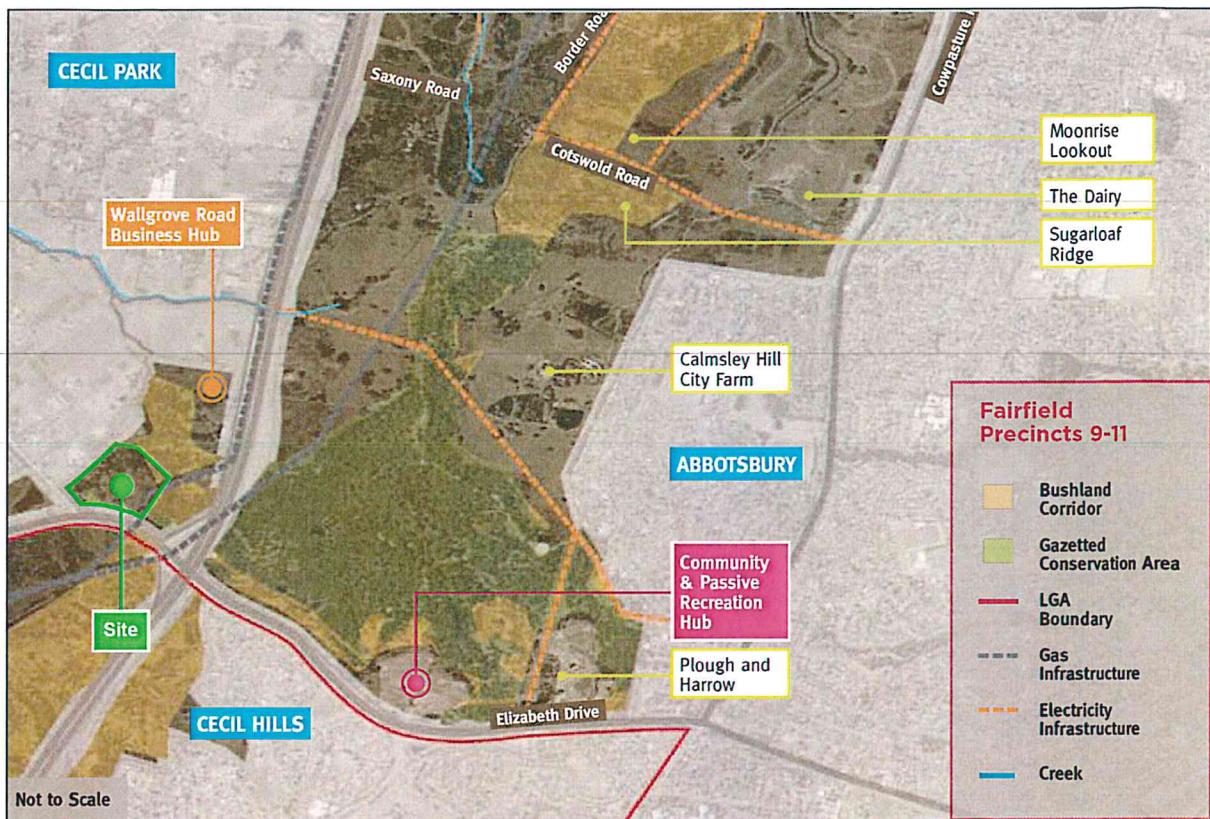


Figure 1: Fairfield LGA Business Hubs (Supplement to PoM 2020)

Plan of Management 2030

Creation of Business Hubs in the Parklands

PoM 2030 was adopted by the Minister for the Environment and Heritage on 17 December 2018. Various WSPT Business Hubs are identified, which are specifically owned and managed by WSPT.

In the definition section on page 81, WSPT Business Hubs are defined as “*Designated sites for business purposes under the ownership of the Trust. WSPT Business Hubs serve the primary purpose of generating revenue to support the development and operation of the Parklands in accordance with the Plan of Management.*” As the Site is not “under the ownership of the Trust”, it cannot be considered a WSPT Business Hub.

Page 41 of the PoM 2030 notes the clear purpose of WSPT Business Hubs is to “generate revenue to support the Parklands’ operations, including maintenance and development of new and existing facilities. WSPT Business Hubs make a significant contribution to economic development, employment and training opportunities in Western Sydney.” SSD 8859 would not generate revenue to support the Parklands’ operations; most of the benefit would be directly received by the applicant of SSD 8859.

Allocation of Business Hubs

Table 5 of the PoM 2030, 'Land Use: past, current and future' in Section 5 'Land Use Framework', provides an updated Land Use table that confirms 63 hectares of the long-term outcome of 105 hectares (2%) has been committed as WSPT Business Hubs. This excludes Fifteenth Avenue Business Hub (SSD-6407) which was granted development consent by DPE in October 2016 and Light Horse Interchange Business Hub (SSD 18-9667) for which DPE issued SEARs in November 2018. As detailed in the table below, only 4.5 hectares remains within the 2% Business Hubs allocation and there are four sites identified in the PoM 2030 as *Under Investigation*:

Total Area for Business Hubs (as per PoM 2020 & PoM 2030)	105ha
Current Business Hubs	63ha
Fifteenth Avenue Business Hub (SSD-6407)	3.9ha
Light Horse Interchange Business Hub (SSD 18-9667)	33.6ha
Remaining Area for Business Hubs (<i>Under Investigation</i>)	4.5ha

There is clearly no allowance for SSD 8859 to be included within the 2% allocation for Business Hubs as is proposed in the EIS. The PoM 2030 Land Use table also allocates 0% *Interim* uses in the long-term meaning that the Site cannot be considered as interim.

Location of Site not identified for a Business Hub

The Site is located within Precinct 11 *Cecil Park North* of the PoM 2030 which includes "WSPT Business Hub(s) at sites designated by the Trust" under *Land Use Opportunities*. Whilst the location of a Business Hub has been identified in Precinct 11 in PoM 2030, it does not apply to the Site. As such, the Site should only be used for the other *Land Use Opportunities* identified in the PoM 2030.

As the Site is not designated by WSPT for development as a Business Hub, it should not be approved as one. SSD 8859 is not within a Business Hub site and therefore will be incompatible with the overall plan and strategic goals for the Parklands.

Wallgrove Road Business Hub is identified as *Under Investigation* to the north of the Site however there is a Bushland Corridor clearly separating the two parcels as shown in *Figure 2*. Clause 1.2 of the EIS states "The subject site forms part of the broader Wallgrove Road Business Hub (Precinct 11 in the WSPT PoM)...". This statement is entirely incorrect.



Figure 2: Precinct 11: Cecil Park North (PoM 2030)

Conclusion

In summary, WSPT is very concerned that an approval for SSD 8859 would:

- Restrict WSPT's ability to undertake its statutory functions by reducing potential for revenue streams required to manage and enhance the Parklands, or by resulting in overdevelopment of the Parklands;
- Restrict WSPT's ability to develop 2% of the Parklands for Business Hubs, which has already been allocated and accounted for;
- Defer the acquisition process of the Site due to subdivided lots and increased acquisition costs;
- Be contrary to the conditions for consideration in determining applications on 'private land' within the Parklands; and
- Create incompatibility and inconsistency with the Statutory Documents for the Parklands including the Site.

Thank you for the opportunity to provide input to SSD 8859. If you have any questions, please do not hesitate to contact Tim Colless on the first page.

Yours sincerely

A handwritten signature in black ink, appearing to read "Suellen Fitzgerald".

Suellen Fitzgerald
Executive Director
Parramatta Park and Western Sydney Parklands Trust