



Office of  
Environment  
& Heritage

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SSD 8707

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Dear Mr Sargent

**Ivanhoe Estate Redevelopment – Concept Plan (SSD 8707)**

Thank you for your letter dated 20 May 2019, inviting the Office of Environment and Heritage (OEH) to comment on Notice of Exhibition (Response to submissions) for the Ivanhoe Estate Redevelopment – Concept Plan (SSD 8707).

OEH has reviewed the response to submissions report prepared by Ethos Urban dated 27 September 2018 and provides comments in regard to Aboriginal cultural heritage and biodiversity matters in Attachment 1. Comments regarding flood matters will be provided separately.

Please be advised that a separate response may be provided on heritage matters by the Heritage Division of OEH as delegate of the Heritage Council of NSW.

Should you have any queries regarding this matter, please contact Marnie Stewart on 9995 68680 or [Marnie.stewart@environment.nsw.gov.au](mailto:Marnie.stewart@environment.nsw.gov.au)

Yours sincerely

*S. Harrison 25/06/19*

**SUSAN HARRISON**  
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**Communities and Greater Sydney Division**

## Attachment 1 – OEH comments

### Aboriginal cultural heritage

OEH notes that a due diligence Aboriginal heritage assessment was undertaken for the proposal and that Response to Submissions report states that “*An Aboriginal Cultural Heritage Assessment Report is not required*”. While the SEARs did not specifically require the preparation of an ACHAR, a due diligence is not a substitute for undertaking an Aboriginal cultural heritage assessment as required by the Heritage and Archaeology SEAR.

Due diligence is a legal defence against harm under the *National Parks and Wildlife Act 1974* and is inadequate to assess the impacts of the proposed development on the Aboriginal archaeological and cultural heritage values of the subject land. Due diligence is not to be used for major projects, including State significant developments. Therefore, in order to adequately address Aboriginal cultural heritage, it is recommended that an Aboriginal Cultural Heritage Assessment Report (ACHAR) be prepared prior to the determination of the application.

### Biodiversity

#### Staged offsets approach

OEH notes that staged offsets have been proposed in accordance with Table 22 and Figure 11 of the *Ivanhoe Estate Re-development SSD 17\_8707 Biodiversity Assessment Report and Offset Strategy* (Eco Logical Australia, September 2018) in a manner that is “*commensurate to the area of impacts*” (page 43 of that report). However, upon consideration of the Environmental Impact Statement (EIS) for the associated SSD 8903 ‘Ivanhoe Estate Redevelopment Stage 1’ (Ethos Urban, 14 March 2019), a staged approach to the delivery of offsets may not be appropriate because SSD 8903 seeks approval for (page 13 of the EIS):

- “site preparation works, including tree removal, demolition of roads and services, and earthworks across the Ivanhoe Estate
- the provision and augmentation of utilities and services infrastructure across the Ivanhoe Estate
- the construction of all internal roads including public domain within the road reserves, and the bridge crossing and road connection to Lyonpark Road including changes to parking, site access, landscaping and ancillary works at 2-4 Lyonpark Road; ...”.

This wording suggests most or all of the vegetation on site will be removed in relation to Stage 1. If this is the case, OEH recommends all required credits are retired upfront and that the various management plans referred to below (Biodiversity Management Plan (BMP), Construction Environment Management Plan (CEMP), Vegetation Management Plan (VMP) and weed management plan) are conditioned as part of the approval for Stage 1 (SSD 8903).

#### Biodiversity assessment

OEH previously noted that *Melaleuca deanei*, which is listed as vulnerable under the *Biodiversity Conservation Act 2016* and *Environment Protection and Biodiversity Conservation Act 1999*, was listed in Appendix A (Plot and transect data) as occurring in plot 5, with Figures 4 and 5 identifying this plot as occurring within the construction footprint. OEH notes that page 63 of Appendix A to the Response to Submissions states “The inclusion of *Melaleuca deanei* in Appendix A is a typographical error. The species does not occur onsite, and the BAR has been amended to include *Melaleuca decora*.” However, OEH also notes that the BAR has not been amended. The absence of *M. deanei* needs to be confirmed, as OEH notes there are recent records from nearby, one 2016 record occurring approximately 1.1 km (Hills M2 Motorway at Macquarie Park) and one 2017 record from 3.1 km away (Martins Reserve North Ryde), and so it is feasible that it is onsite.

#### Impact assessment

In the previous correspondence, OEH commented that the proposed access to the site off Epping Road should be removed. The Response to Submissions report states that the proposed entrance to

the site must remain in order to facilitate traffic ingress/egress requirements of the future development. However, OEH still considers all attempts should be made to remove this access point, so the connectivity of the critically endangered Sydney Turpentine Ironbark Forest (along the Epping Road frontage) is retained.

As previously stated, enhancement of the Shrimptons Creek riparian zone should involve minimal alterations to the landform in the forest areas and should preserve existing trees. Any regeneration or management of vegetation along Shrimptons Creek should use local provenance species that are appropriate for the plant community types present.

As previously stated, a BMP, weed management plan, CEMP and VMP need to be conditioned on any forthcoming development approvals. The BMP needs to include pre-clearance surveys of hollows and if these surveys find breeding habitat for threatened species, such as the Powerful Owl, then measures need to be taken to avoid impacting this habitat type.

#### Shrimptons Creek riparian corridor

OEH notes a riparian corridor is proposed along Shrimptons Creek however, as previously stated, it is recommended that the existing E2 zone, which adjoins the northern boundary of the site, is extended into the site along the Shrimptons Creek riparian corridor. This will ensure the highest level of zoning protection is afforded in the long term for the corridor and for any rehabilitation efforts.

#### Biodiversity Offsets Strategy

While the BAR and BOS provide conflicting information on how the offset requirements for ecosystem credits will be met, OEH notes and supports the following statement made in Appendix A to the Response to Submissions “*an appropriate mechanism for compensating for direct impacts under the FBA is to purchase and retire biobanking credits*”. OEH assumes the types of credits that are retired will be in accordance with Table 21 of the revised BAR. OEH notes that Appendix B of the BAR is missing from the revised BAR.

#### Long term management

OEH notes the “*details of the VMP will be included post approval*”. OEH recommends the VMP addresses: the long-term management of all vegetation retained on site; the rehabilitation and management of vegetation along Shrimptons Creek; the use of local provenance species appropriate for the threatened ecological communities and plant community types present on the site; and the monitoring of vegetation to ensure its long-term viability.

(END OF SUBMISSION)