



Our ref: DOC19/678467
Senders ref: SSD-9667

Mr William Hodgkinson
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Mr Hodgkinson

Subject: EES comments on the Aboriginal Cultural Heritage Assessment Report for Light Horse Interchange Business Hub – SSD-9667 – 165 Wallgrove Road and 475 Ferrers Road Eastern Creek

Thank you for your email of 23 September 2019 requesting comments on the Aboriginal Cultural Heritage Assessment Report (ACHAR) which was an attachment to the Environmental Impact Statement (EIS) for this State Significant Development (SSD).

EES provides its recommendations and comments on the ACHAR at Attachment A in addition to further comments on biodiversity.

Please note this submission replaces the previous EES submission of 23 October 2019.

If you have any queries regarding this matter, please do not hesitate to contact Janne Grose, Senior Conservation Planning Officer on 02 8837 6017 or at janne.grose@environment.nsw.gov.au

Yours sincerely

 30/10/19

Marnie Stewart

**A/Senior Team Leader Planning
Greater Sydney Branch
Environment, Energy and Science**

Subject: EES comments on Aboriginal Cultural Heritage Assessment Report for Light Horse Interchange Business Hub – SSD-9667 – 165 Wallgrove Road and 475 Ferrers Road Eastern Creek

The Environment, Energy and Science Group (EES) has reviewed the Environmental Impact Statement Light Horse Interchange Business Hub, Eastern Creek SSD 9667 prepared by Urbis for Western Sydney Parklands Trust dated July 2019, Light Horse Business Hub, Eastern Creek NSW (SSD 9667) Aboriginal Cultural heritage Assessment Report (ACHAR) prepared by Extent Heritage Advisors for Western Sydney Parklands Trust dated March 2019 and the Planning Secretary's Environmental Assessment Requirements SSD 9667, Light Horse Interchange Business Hub, Eastern Creek (SEAR)s issued 7 November 2018 and provides the following comments for consideration.

It is noted the proposed business hub forms an important component of the self-funded model for the Western Sydney Parkland Trust. It is further acknowledged that the proposed positioning of the business hub on the perimeter of the Parklands, in an area considered to be of lower conservation and recreational value, and close to established employment areas and the metropolitan road network, is an attempt to minimise impacts on Parkland values while achieving the Parklands' future financial aspirations.

EES acknowledges the ACHAR has been prepared in consultation with Aboriginal people and that the consultation was in accordance with the Aboriginal cultural heritage consultation requirements for proponents 2010. However, the documentation provided details only the consideration of potential impacts to identified surface Aboriginal cultural heritage from the proposal. It is evident the assessment process did not include any subsurface test investigations.

The identification of an existing potential archaeological deposit (PAD) within the project area and the survey results that indicated the potential for some of the newly identified surface Aboriginal objects to also have a sub-surface expression indicates test investigation is required to inform what needs to be avoided and what can be mitigated and managed. Not undertaking test excavation appears to be contrary to the SEARs that identified that test excavations may be required to determine the subsurface Aboriginal cultural heritage values.

Page 61 of the ACHAR confirms the proposal has the potential to impact areas of moderate, high and very high archaeological potential and makes recommendations for the incorporation of a number of Minister's conditions of approval to address the need for the subsurface expression across the project area to be assessed prior to construction to inform its management. EES recommends the sub-surface investigation be undertaken prior to approval. If this is not possible then it is recommended that proposed Minister's conditions of approval on Pages 61-63 be reworded to ensure the Aboriginal heritage management plan (AHMP) is developed to the satisfaction of the Secretary prior to any ground disturbing works. A requirement for test excavations to be undertaken as part of the preconstruction works before any other ground disturbance activities occur should be built into the proposed AHMP and the overarching construction management plans and work method statements. The results of the subsurface archaeological test investigations must inform any salvage and/or community collection activities required as part of the AHMP. The proposed archaeological excavation within the project, area including under the existing buildings, should consider the potential for shared or contact archaeology to be also present.

It is important to remember that if SSD 9667 is approved, the proposed AHMP will only regulate Aboriginal cultural heritage matters within the approval boundary for those development matters that are part of the SSD approval. Therefore, further clarification is required around the proposed future DAs and whether they will also be part of the SSD or whether they will be assessed under Part 4. All Aboriginal objects that remain within the project area after the initial SSD works are completed under the ACHMP will no longer have an exemption if they are subsequently impacted by future development works as part of a DA. If these potential future works will impact on

Aboriginal objects (even if it be Aboriginal objects in a disturbed context) then an AHIP will be required. The potential future resource cost to both those proposing to develop the lots and to the ACH regulatory section of the State government needs to be considered. The extent of the proposed salvage and/or community collection undertaken as part of the ACHMP should be comprehensive enough to remove the need for any of the future DAs proposed within the area to require an AHIP. This process may include works to ensure that the future building areas and their individual access routes are cleared of Aboriginal objects prior to the completion of development works under the SSD approval. Also, if any element of the development is relocated outside the area assessed in the ACHAR then that relocation is unlikely to be within the SSD approval boundary and as such would need to comply with Part 6 of the National Parks and Wildlife Act 1974.

EES supports the continuation of consultation with Aboriginal knowledge-holders and the prompt recording of Aboriginal objects in AHIMS. EES also encourage site inductions that include an Aboriginal Cultural Heritage Education Program developed for the induction of all personnel and contractors involved in the construction activities on site. EES recommend records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the representatives of the local Aboriginal community.

With regards to the proposed conditions relating to the curation and long-term management of Aboriginal objects recovered within the project area, a Care Agreement under 85A(1)(c) of the National Parks and Wildlife Act 1974 will be required to remove any Aboriginal objects salvaged/collected as part of the AHMP from within the approval boundary for any purpose other than temporary storage for archaeological analysis.

Biodiversity

The biodiversity issues previously raised in the EES submissions on the Adequacy Review (dated 29 July 2019) and the EIS (dated 6 September 2019) still need to be addressed and this includes the following points:

- In the submission of 29 July 2019, EES advised that the BDAR does not provide strong evidence that there will not be significant impacts on the Threatened Ecological Community Cumberland Plain Shale Woodlands and Shale/Gravel Transition Forest, and on the Grey-headed Flying-fox. EES does not consider this issue has been addressed as far as satisfying the Commonwealth EPBC Act requirements.
- The BDAR still does not adequately consider avoidance of impacts in accordance with the BAM, as adequate justification has not been provided as to why the footprint cannot be further reduced and why more impacts to biodiversity cannot be avoided.

End of Submission

