

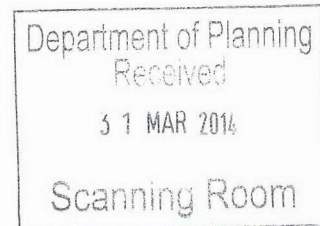


Office of
Environment
& Heritage



Your reference: SSD 6160
Our reference: DOC14/27591
Contact: Rachel Lonie 9995 6837

Mr David Gibson
Team Leader Industry, Key Sites and Social Projects
Department of Planning and Infrastructure
GPO Box 39
Sydney NSW 2001



Attention: Megan Fu

Dear Mr Gibson

I refer to your email received on 6 March 2014 inviting comment from the Office of Environment and Heritage (OEH) on the exhibited development application (DA) for the Mona Vale Community Health Centre at the Mona Vale Hospital Coronation St, Mona Vale (SSD 6160).

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 legal concept for Aboriginal cultural heritage that 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, not for State Significant Development under the *Environmental Planning and Assessment Act 1979*. Due Diligence provides a legal defence against prosecution under the NPW Act should Aboriginal objects that were not anticipated to be present in a particular location 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.

The DGRs require that consultation with the Aboriginal community must be undertaken in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*. Consultation with the Aboriginal community has been informal and not in accordance with the above requirements, therefore, it is inconsistent with the DGRs.

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 and require a more detailed level of assessment and formalised consultation with the Aboriginal community than Due Diligence.

If you have any queries regarding this advice please contact the undersigned on 9995 6830.

Yours sincerely

Fran Scully 25/05/14

FRAN SCULLY
A/Senior Team Leader Planning
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