



Our ref: DOC20/856630-8
Your ref: SSD-5339

Emma Barnet
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Industry Assessments
Department of Planning Industry and Environment
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Advice provided via the Major Projects Portal

Dear Ms Barnet,

Notice of Exhibition – Minto Resource Recovery Facility (SSD-5339) (Campbelltown)

Thank you for your referral dated 16 October 2020 inviting comment from Heritage NSW on the proposed Minto Resource Recovery Facility, 7 Montore Road, Minto. We provide the following comments in relation to Aboriginal cultural heritage regulation matters.

Previous Aboriginal cultural heritage advice for SSD 5339

We note the then Office of Environment and Heritage (OEH) provided advice to Nexus Environmental Planning Pty Ltd in relation to assessment requirements for Aboriginal cultural heritage for this state significant development on 11 January 2019. This advice included that an Aboriginal Cultural Heritage Assessment Report (ACHAR) must be prepared for the environmental assessment. The ACHAR was to be guided by the *Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW* (OEH, 2011) and needed to be supported by consultation with Aboriginal people undertaken and documented in accordance with the *Aboriginal cultural heritage consultation requirements for proponents 2010* (DECCW 2010).

Aboriginal cultural heritage regulation is now part of Heritage NSW

On 1 July 2020 the Aboriginal cultural heritage regulation functions under the *National Parks and Wildlife Act 1974* (NPW Act) were transferred to Heritage NSW in the Department of Premier and Cabinet. All references to the regulation of Aboriginal objects and Aboriginal places need to be updated to Heritage NSW.

Aboriginal cultural heritage regulation review of EIS and due diligence

Heritage NSW has reviewed the following documents as part of our assessment:

- *Environmental Impact Statement, Resource Recovery Facility SSD 5339 Concrete Recyclers Pty Ltd 7 Montore Road Minto*, (EIS) prepared by Nexus Environmental Planning Pty Ltd, dated 13 October 2020.
- *Appendix 17: Aboriginal Objects Due Diligence Assessment Minto Waste and Resources Recovery Centre Minto, NSW*, prepared by Niche Environment and Heritage, dated 26 March 2020.

We note the EIS (page 4-3) quotes the 2019 OEH advice regarding Aboriginal cultural heritage and states the required assessments have been included as Appendix 17 to the EIS. Section 15 of the EIS summarises the outcomes of a 2020 due diligence assessment and incorporates only two of the three recommendations. The EIS contains no specific commitments or mitigation measures in relation to managing Aboriginal cultural heritage under Table 16-1.

Contrary to OEH advice, an ACHAR has not been prepared and the consideration of Aboriginal cultural heritage was undertaken following the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (DECCW 2010). Despite the development being identified to occur within an alluvial landscape known to contain Aboriginal objects, this report states the potential for Aboriginal cultural heritage has been removed by the history of earthworks across the site. We note there has been no on ground survey or test excavation undertaken to confirm any subsurface potential or the reported disturbance levels.

As the 2020 assessment was undertaken following the due diligence process there has also been no consultation undertaken with the Aboriginal community which may have provided more information about cultural values of the project area.

Aboriginal cultural heritage regulation advice

While the due diligence assessment states there are no Aboriginal heritage constraints based on the desktop analysis, we would recommend this be confirmed by an on-ground assessment as a minimum.

Given the landscape the development is located within, we support raising the cultural awareness of contractors working on site. We also provide additional recommendations:

- The Statement of Commitments in the EIS should be updated to include provisions for managing Aboriginal cultural heritage values.
- Any Aboriginal cultural heritage awareness inductions would benefit from the involvement of Aboriginal community representatives.
- An Unexpected Finds Protocol for Aboriginal objects needs to be included as part of any Construction Environmental Management Plan (CMP) prepared for the development works.

The EIS and due diligence report also contain several errors that need to be revised including:

- contacting the Office of Environment and Heritage under section 15.1.4 (EIS, page 15-4) if Aboriginal objects are found during works.
- administration of the NPW Act by OEH (due diligence report, section 1.4, page 2). This should now refer to Heritage NSW.
- referring to section 80B of the *National Park and Wildlife Regulation 2009* (due diligence report, section 4, page 14). Heritage NSW can advise that the Regulation was updated in 2019 with the Aboriginal cultural heritage clauses re-numbered.

Please note: the above comments relate to Aboriginal cultural heritage regulation matters only. You may wish to seek separate advice from Heritage NSW in relation to matters under the *Heritage Act 1977*.

If you have any questions regarding the above advice please contact me on (02) 6229 7089 or via email at jackie.taylor@environment.nsw.gov.au.

Yours sincerely



Jackie Taylor
Senior Team Leader, Aboriginal Cultural Heritage Regulation - South
Heritage NSW
4 December 2020