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Senders ref: SSD 9494

Mr Jason Maslen
Department of Planning, Industry & Environment
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SYDNEY NSW 2001

Via email:

jason.maslen@environment.nsw.gov.au

4 December 2019

Dear Mr Maslen

Subject: Estella Public School (SSD 9494) – Exhibition of Environmental Impact Statement

Thank you for your email dated 7 November 2019 seeking comments from the Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment (the Department) about the Environmental Impact Statement (EIS) for the Estella Public School.

We have reviewed the exhibited EIS against the Secretary's Environmental Assessment Requirements (SEARs) provided by the Department to the proponent on 8 August 2018.

BCD considers that the EIS **does** meet the Secretary's requirements for flooding, biodiversity and Aboriginal cultural heritage assessment, contingent on the applicant addressing issues 1 and 2 identified in **Attachment A**.

A summary of our assessment, advice and recommended conditions of approval is provided in **Attachment A**. Detailed comments are in **Attachment B**.

All plans required as a Condition of Approval that relate to flooding, biodiversity or Aboriginal cultural heritage should be developed in consultation and to the satisfaction of BCD, to ensure that issues identified in this submission are adequately addressed.

If you have any questions about this advice, please contact Simon Stirrat, Senior Environmental Planning Officer, via rog.southwest@environment.nsw.gov.au or 03 5021 8930.

Yours sincerely

Andrew Fisher
Senior Team Leader Planning
South West Branch
Biodiversity and Conservation Division
Department of Planning, Industry and Environment

ATTACHMENT A - Assessment Summary for Estella Public School Environmental Impact Statement (SSD 9494)

ATTACHMENT B - Detailed comments for Estella Public School Environmental Impact Statement (SSD 9494)

ATTACHMENT A BCD Assessment Summary for Estella Public School Environmental Impact Statement (SSD 9494)

Key Issues

1.	<i>Aboriginal cultural heritage</i>	<p>The Aboriginal Cultural Heritage Assessment Report (ACHAR) has not mapped AHIMS site correctly within the local landscape</p> <p>Recommended actions:</p> <ul style="list-style-type: none"> • <i>Re-project and map AHIMS data to correctly reflect AHIMS site locations/distribution in the local landscape</i> • <i>Amend predictive modelling/statements in the ACHAR to reflect correct mapping of AHIMS sites</i>
	<i>Extent and Timing</i>	Pre-determination

2.	<i>Aboriginal cultural heritage</i>	Management Recommendation 2 – Discovery of Unanticipated Aboriginal Objects requires updating
	<i>Extent and Timing</i>	Pre-construction
	<i>Recommended Conditions of Approval</i>	<p>Management Recommendation 2 (Unanticipated finds protocol) be updated to include the following:</p> <p><i>If any Aboriginal object is discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:</i></p> <ol style="list-style-type: none"> 1. <i>Not further harm the object</i> 2. <i>Immediately cease all work at the particular location</i> 3. <i>Secure the area to avoid further harm to the Aboriginal object</i> 4. <i>Notify the Department of Planning, Industry and Environment as soon as practical on 131555, providing any details of the Aboriginal object and its location</i> 5. <i>Not recommence any work at the particular location unless authorised in writing by the Department of Planning, Industry and Environment.</i> <p><i>If skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and contact made with NSW Police and the Department of Planning, Industry and Environment.</i></p>

ATTACHMENT B Detailed comments for Estella Public School Environmental Impact Statement (SSD 9494)

Aboriginal cultural heritage

The Aboriginal Cultural Heritage Assessment Report (ACHAR) does meet the Secretary's requirements

The ACHAR is consistent with requirements identified by the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (DECCW 2010).

In the ACHAR, AHIMS site locations (ACHAR Figure 3: AHIMS records within 5kms of the study area) have not been mapped correctly within the local landscape. It appears that a different projection has been used. This means that predictive statements made in relation to potential site distribution is potentially compromised.

ACHAR Management Recommendation 2 (*discovery of unanticipated Aboriginal objects*)

The 'unexpected finds procedure' for development activity must include an appropriate protocol for encountering Aboriginal sites, objects and skeletal remains.

Note: BCD advises against notifying registered Aboriginal parties (RAPs) of the discovery of skeletal remains until the Police have confirmed whether the remains pre-date European occupation and are Aboriginal in origin.

We recommend the following actions prior to determination:

- Project AHIMS site locations (ACHAR Figure 3: AHIMS records within 5kms of the study area) in accordance with their actual location so they are consistent with AHIMS populated maps
- Amend any predictive modelling/statements in the ACHAR to reflect the updated site locations

Conditions of approval

BCD recommends the inclusion of the following unanticipated finds protocol:

If any Aboriginal object is discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:

1. *Not further harm the object*
2. *Immediately cease all work at the particular location*
3. *Secure the area to avoid further harm to the Aboriginal object*
4. *Notify the Department of Planning, Industry and Environment as soon as practical on 131555, providing any details of the Aboriginal object and its location*
5. *Not recommence any work at the particular location unless authorised in writing by Department of Planning, Industry and Environment.*

If skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access, and contact made with NSW Police and Department of Planning, Industry and Environment.

Biodiversity

The Biodiversity Development Assessment Report (BDAR) does meet the Secretary's requirements for biodiversity.

The project has taken a conservative approach to impacts on biodiversity by assessing the modified site has having residual biodiversity values, and offsetting accordingly.

BCD has no specific comments regarding the biodiversity assessment. The BDAR has included all information required under the Biodiversity Assessment Method and has reasonable justifications for exclusion of Ecosystem and Species Credit Species from the final biodiversity offset calculations.

Conditions of approval

Management plans

The commitment in the EIS to preparation of a Construction Environmental Management Plan should be included as a condition of approval.

The Construction Environmental Management Plan should include the relevant mitigation commitments identified in Table 8.1 of the BDAR.

Revegetation

Consistent with BDAR section 8.1.3, BCD recommends that any landscape plantings associated with the project should be with locally occurring native species.

Flooding

BCD has reviewed the flooding component in Section 5.15.4 of the EIS and Appendix N Stormwater Management Report.

The EIS does address the Secretary's requirements for flooding.

Wagga Wagga City Council (WWCC) has been progressing its Floodplain Risk Management Program through the completion of a number of studies and plans covering areas with the LGA. Most relevant to this proposal is the Wagga Wagga Major Overland Flow (MOF) Floodplain Risk Management Study and Plan project which is currently in progress and due to be completed in the near future. A detailed hydraulic model has already been developed by consultants WMAwater (on behalf of WWCC) as part of this project to define the overland flow flood risks across the urban areas of Wagga Wagga affected by these types of flows including Estella. Unfortunately, this work has not been utilised in the environmental assessment for this project. Instead the EIS references the Wagga Wagga Revised Murrumbidgee River Floodplain Risk Management Study and Plan (2018) that covers the areas affected by riverine flooding only. That study is not relevant to this proposal as the development site lies well above the Probable Maximum Flood level and is hence outside the study area covered by this Plan.

Review of the MOF flood mapping indicates that it does not show significant inundation of the development site itself in the 1% Annual Exceedance Probability (AEP) design event, acknowledging that the flood extents have been trimmed for depths of less than 150mm which is standard industry practise to remove 'nuisance' flooding from the flood extents. However, the Estella Road reserve (located along the southern boundary of the site) is a major flow path which is activated during local intense rainfall events. As such, it is important that the development does not exacerbate the flooding risk to areas downstream. The Stormwater Management Report (Appendix N) appropriately alleviates this concern by proposing on-site detention to reduce the flood peaks leaving the site to pre-development conditions.

Conditions of approval

Consistent with the Stormwater Management Report, BCD recommends that the stormwater management strategy to be implemented, including the on-site stormwater detention system.