Planning Services
Industry Assessments
Contact: Chloe Dunlop
Phone: (02) 8289 6667
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Our Ref: SSD 8859

Mr Rohan Dickson
Director
AE Design Partnership
3/780 Darling Street
Rozelle, NSW 2039

Dear Mr Dickson

Response to Submissions
1111-1116 Elizabeth Drive, Cecil Park subdivision (SSD 8859)

The exhibition of the development application (DA), including the environmental impact statement (EIS), for the above project ended on Friday, 22 February 2019. All submissions received by the Department of Planning and Environment (the Department) have been forwarded to you. Copies of the submissions are also available on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8859

In accordance with section 85A of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), the Department requires that you provide a response to the issues raised in all submissions and requests that this is submitted within six weeks of the date of this letter. You are also requested to submit additional information that effectively addresses the issues identified in **Attachment 1**.

Strategic and Statutory Considerations

The Department considers the development is inconsistent with the aim of the *State Environmental Planning Policy (Western Sydney Parklands) 2009* (Parklands SEPP) and the Defining Principles (1 and 9), Strategic Directions (1 and 4) and the Land Use Framework of the Plan of Management 2030 (POM 2030). This is because the proposed development (the development):

a) is located on privately owned land and would not generate revenue for the Western Sydney Parklands Trust (WSPT) to invest in the ongoing management of the Western Sydney Parklands (the Parklands) for the benefit of the community;
b) is not strategically identified as a business hub by the POM 2030; and
c) would not protect or enhance the natural systems of the Parklands, as required under the Parklands SEPP and the POM 2030.

Insufficient justification has been provided in the EIS to demonstrate that the development complies with the aim of the Parklands SEPP and that the commercial, retail and other uses of the site are consistent with the Greater Sydney Region Plan – A Metropolis of Three Cities (the Metropolitan Strategy). Objective 23 of the Metropolitan Strategy requires that industrial and urban service land is planned, retained and managed. However, the site is identified by the Metropolitan Strategy as being within a 'Major Urban Parkland' and in a Metropolitan Rural Area (refer Figure 42).

The Department considers that, due to the significant biodiversity impacts identified in Section 6.1 of the EIS, the development would be inconsistent with Objective 27 of the Metropolitan Strategy, which requires that biodiversity is protected, and remnant vegetation enhanced.

A number of these concerns have also been identified by the WSPT.

The Department is concerned that the EIS does not provide sufficient justification for the proposal against the relevant strategic framework and requests that you provide a detailed response to these issues.

Biodiversity Impacts

The Office of Environment and Heritage (OEH) submission indicates the proposed development, in its current form, would have an adverse impact on the biodiversity values of the site. OEH recommend amendments to the proposal to avoid impacts on the critically endangered ecological community of CPW and threatened species habitat present on the site.

Given the significant issues raised by the WSPT and the OEH, the Department requests your attendance at a meeting prior to the preparation of a Response to Submissions report (RTS) to discuss the key issues in more detail and how you intend to respond.

If there are any changes to the scope of the development that substantially change the environmental impacts of the development as outlined in the EIS, exhibition of the proposed changes may be required in accordance with Schedule 1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Note that under clause 113(7) of the Regulation, the days occurring between the date of this letter and the date on which your response to submissions is received by the Planning Secretary are not included in the calculation of the deemed refusal period.

If you have any questions, please contact Chloe Dunlop, Senior Planning Officer on the details listed above.

Yours sincerely

C. Ritchie

Chris Ritchie
Director,
Industry Assessments

15/4/19

ATTACHMENT 1 – DEPARTMENT OF PLANNING AND ENVIRONMENT ISSUES

Inconsistency with the Parklands SEPP and Plans of Management

1. The Department shares the concerns of the WSPT that the development does not provide justification for the inconsistencies with the applicable strategic planning framework for the Parklands. The inconsistencies include, but are not limited to, the following:
   - the Plans of Management for the Parklands (including POM 2030) which identify that the primary purpose of business hubs in the Parklands is to generate revenue for the WSPT for the ongoing management of the Parklands to benefit the community; and
   - the land use framework and precinct maps in the Plans of Management, which show the site as being located outside land identified strategically for a business hub.

   You are requested to provide a comprehensive response to the concerns raised in the submission from the WSPT.

2. The EIS refers to the POM 2030 as being in draft form and does not sufficiently address the POM 2030. The POM 2030 is no longer in draft form, as it was adopted by the Minister for the Environment and Heritage in December 2018. As such, you are requested to provide a detailed assessment of the proposed development against the POM 2030, including the Desired Future Character, Land Use Opportunities and Key Management Priorities for the Cecil Park North Precinct.

Biodiversity Impacts

3. Section 6.1 of the EIS identifies that the development would result in the following biodiversity impacts:
   - the removal of 2.35 hectares (ha) of CPW, which is listed as a 'critically endangered ecological community' (CEEC) under the *Biodiversity Conservation Act 2016* (BC Act 2016) and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
   - the removal of 2.35 ha of assumed habitat for the:
     - Southern Myotis (*Myotis Macropus*), a threatened fauna species listed as 'vulnerable' under the BC Act 2016;
     - Matted Bush-pea (*Pultenaea Pedunculata*), a threatened flora species listed as 'endangered' under the BC Act 2016; and
     - Bush Stone-curlew (*Burhinus grallarius*) and the Cumberland Plain Land Snail (*Meridolum corneovirens*), which are listed as 'endangered' fauna species under the BC Act 2016.
   - potential indirect impacts to adjoining vegetation from edge effects, light spill, noise and the introduction of weeds and pathogens.

   The Department shares the concerns of the OEH that the proposed development, in its current form, would have an adverse impact on the biodiversity values of the site and conflicts with:
   - the defining principle of 'protecting natural environmental values' of the POM 2030;
   - the aim of the Parklands SEPP of 'protecting and enhancing the natural systems of the Western Parklands, including flora and fauna species…'; and
   - Objective 27 of the Metropolitan Strategy, which requires that 'biodiversity is protected, urban bushland and remnant vegetation is enhanced'; and
   - planning principle W14 of the Western City District Plan, of 'protecting and enhancing bushland and biodiversity'.

   You are requested to provide a comprehensive response to the concerns raised by OEH.

4. You are requested to provide a list of the number of trees proposed to be removed and the number of trees to be planted on the site, as requested in the Secretary's Environmental Assessment Requirements dated 29 November 2017.

Acquisition of Land

5. It is noted the site is located on private land within the Parklands. Under the Parklands SEPP, the consent authority must consider the effect of the carrying out development on acquisition costs before granting consent for development on private land in the Parklands. You are requested to provide an estimate (in dollars) of the potential increase in the future costs of acquisition of the site, following the assumed completion of the proposed development.

Traffic and Access

6. For the purposes of predicting the worst-case traffic impacts from the proposed development, you are requested to outline the assumed hours of operation and update the traffic modelling to reflect the expected operating hours of the proposed business hub.

7. You are requested to clarify what the predicted worst-case daily traffic volumes for the site would be.

8. The EIS states (on page 18 of Appendix 21 'Traffic and Parking Assessment Report') that the proposed development would generate up to 653 peak hour vehicle trips during the peak network periods. Provide a breakdown of vehicle types expected to enter and exit the site and the proportion of heavy and light vehicles.

9. Outline any assumptions used in determining the number of vehicles for passing trade.

10. Provide details of the predicted construction traffic volumes and principles that would be implemented to manage traffic from construction activities.

11. Provide details of the volume of traffic predicted for the collection of wastewater and include this in the traffic modelling.

Risks and Hazards

12. The Department has undertaken a search of the Australian Pipeline Database and found that:
    - the Jemena Eastern Gas Pipeline (*NSW Pipelines Act 1967* Licence #26) is located within the site; and
    - the Jemena Central Trunk (Wilton to Horsley Park) Pipeline (*NSW Pipelines Act 1967* Licence #1) is located in vicinity of the site.

    Figure 10 in the EIS provides a general indication of two pipelines marked 'Gas Infrastructure' on the diagram and Table 8 in the EIS only identifies the Jemena Eastern Gas Pipeline. Provide a figure which clearly shows the location of all high-pressure dangerous goods and gas pipelines within, or in the vicinity of the site.

13. Detail the consultation outcomes with all operators of high-pressure dangerous goods and gas pipelines within or in the vicinity of the site with regards to the requirements of *Australian Standard AS 2885 – Pipelines – Gas and liquid petroleum* (AS 2885). Provide sufficient details on how (where relevant) outcomes would be delivered, including and not limited to:
    a) how all operators of high-pressure dangerous goods and gas pipelines would be notified and consulted prior to development works associated with the new 14 lots; and
    b) ensuring that the operation of all high-pressure dangerous goods and gas pipelines can comply with AS 2885, considering any potential land uses in the vicinity of these pipelines.

14. You are requested to provide a detailed response to Jemena's submission. On 26 March 2019, the Department requested clarification on a number of matters in the Jemena submission. The Department will provide you with a copy of any further response from Jemena.

Contamination and Remediation

15. The EIS identifies (on page 16 of Appendix 13 'Preliminary Site Investigation') that the site was previously used for market gardens and there is potential for heavy metals and pesticides to be present on the site. Provide a detailed site investigation report prepared by a certified contaminated land consultant in accordance with relevant EPA guidelines to confirm the site can be made suitable for the proposed use/s.

16. If the detailed site investigation report finds that the site needs to be remediated, provide a remediation plan prepared by a certified contaminated land consultant which addresses the requirements of the *State Environmental Planning Policy No. 55 – Remediation of Land*.

Stormwater and Wastewater Management

17. Provide a copy of the MUSIC modelling undertaken for the stormwater quality assessment.

18. Provide detailed engineering drawings for the proposed stormwater treatment measures.

19. Provide details of how the existing dam in the north eastern corner of the site will be managed.

20. Provide owners consent, from the adjoining land owner, to increase the quantity of stormwater proposed to be dispensed into the dam, and consent to undertake any works in or associated with the dam.

21. Clarify whether or not the calculations for the wastewater loads in the EIS consider loads that may be generated by short-term accommodation uses on the site and if not please provide this information.

Political Donations Disclosure

22. Provide a completed copy of the Political Donations Disclosure Statement in **Attachment 2**.

Landscaping

23. Provide a detailed landscape plan specifying the location of proposed plant species, setbacks and the total area in square metres proposed to be landscaped across the business hub.

Geotechnical Engineering

24. Provide a detailed retaining wall plan which shows:
    a) heights of all proposed retaining walls
    b) sectional plans
    c) retaining wall design.

25. Provide a detailed plan showing all cut and fill proposed on site.

Visual Impacts

26. Provide an assessment of the potential visual impacts of the proposal from the nearest residential dwelling to the north, including photomontages.

ATTACHMENT 2 – POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donations disclosure statement

NSW GOVERNMENT
Department of Planning

Office use only:

Date received: ___/___/___ Planning application no. _____

This form may be used to make a political donations disclosure under section 147(3) of the *Environmental Planning Assessment Act 1979* for applications or public submissions to the Minister or the Director-General.

Please read the following information before filling out the Disclosure Statement on pages 3 and 4 of this form. Also refer to the 'Glossary of terms' provided overleaf (for definitions of terms in *italics* below). Once completed, please attach the completed declaration to your planning application or submission.

Explanatory information

Making a planning application or a public submission to the Minister or the Director-General
Under section 147(3) of the Environmental Planning and Assessment Act 1979 ('the Act') a person:

(a) who makes a *relevant planning application* to the Minister or the Director-General is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by any *person with a financial interest* in the application, or

(b) who makes a *relevant public submission* to the Minister or the Director-General in relation to the application is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by the person making the submission or any *associate of that person*.

How and when do you make a disclosure?
The disclosure to the Minister or the Director-General of a *reportable political donation* under section 147 of the Act is to be made:

(a) in, or in a statement accompanying, the relevant planning application or submission if the donation is made before the application or submission is made, or

(b) if the donation is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within 7 days after the donation is made.

What information needs to be included in a disclosure?
The information requirements of a disclosure of reportable political donations are outlined in section 147(9) of the Act.

Pages 3 and 4 of this document include a Disclosure Statement Template which outlines the information requirements for disclosures to the Minister or to the Director-General of the Department of Planning.

Note: A separate Disclosure Statement Template is available for disclosures to councils.

Warning: A person is guilty of an offence under section 125 of the *Environmental Planning and Assessment Act 1979* in connection with the obligations under section 147 only if the person fails to make a disclosure of a political donation or gift in accordance with section 147 that the person knows, or ought reasonably to know, was made and is required to be disclosed under section 147.

The maximum penalty for any such offence is the maximum penalty under Part 6 of the *Election Funding and Disclosures Act 1981* for making a false statement in a declaration of disclosures lodged under that Part.

Note: The maximum penalty is currently 200 penalty units (currently $22,000) or imprisonment for 12 months, or both.

Glossary of terms (under section 147 of the *Environmental Planning and Assessment Act 1979*)

gift means a gift within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981*. Note. A gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Note: Under section 84(1) of *the Election Funding and Disclosures Act 1981* gift is defined as follows:

gift means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration.

local councillor means a councillor (including the mayor) of the council of a local government area.

relevant planning application means:

a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site, or
b) a formal request to the Minister or the Director-General for development on a particular site to be made State significant development or declared a project to which Part 3A applies, or
c) an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project), or
d) an application for development consent under Part 4 (or for the modification of a development consent), or
e) any other application or request under or for the purposes of this Act that is prescribed by the regulations as a relevant planning application,

but does not include:

f) an application for (or for the modification of) a complying development certificate, or
g) an application or request made by a public authority on its own behalf or made on behalf of a public authority, or
h) any other application or request that is excluded from this definition by the regulations.

relevant period is the period commencing 2 years before the application or submission is made and ending when the application is determined.

relevant public submission means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

reportable political donation means a reportable political donation within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981* that is required to be disclosed under that Part. Note. Reportable political donations include those of or above $1,000.

Note: Under section 86 of *the Election Funding and Disclosures Act 1981* reportable political donation is defined as follows:

86 Meaning of "reportable political donation"

(1) For the purposes of this Act, a reportable political donation is:
  (a) in the case of disclosures under this Part by a party, elected member, group or candidate—a political donation of or exceeding $1,000 made to or for the benefit of the party, elected member, group or candidate, or
  (b) in the case of disclosures under this Part by a major political donor—a political donation of or exceeding $1,000:
    (i) made by the major political donor to or for the benefit of a party, elected member, group or candidate, or
    (ii) made to the major political donor.

(2) A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1).

(3) A political donation of less than an amount specified in subsection (1) made by an entity or other person to a party is to be treated as a reportable political donation if that and other separate political donations made by that entity or person to an associated party within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1). This subsection does not apply in connection with disclosures of political donations by parties.

(4) For the purposes of subsection (3), parties are associated parties if endorsed candidates of both parties were included in the same group in the last periodic Council election or are to be included in the same group in the next periodic Council election.

a person has a financial interest in a relevant planning application if:

a) the person is the applicant or the person on whose behalf the application is made, or
b) the person is an owner of the site to which the application relates or has entered into an agreement to acquire the site or any part of it, or
c) the person is associated with a person referred to in paragraph (a) or (b) and is likely to obtain a financial gain if development that would be authorised by the application is authorised or carried out (other than a gain merely as a shareholder in a company listed on a stock exchange), or
d) the person has any other interest relating to the application, the site or the owner of the site that is prescribed by the regulations.

persons are associated with each other if:

a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business together that may be affected by the granting of the application (in the case of a relevant planning submission), or
b) they are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
c) one is a director of a corporation and the other is any such related corporation or a director of any such related corporation, or
d) they have any other relationship prescribed by the regulations.

Political Donations Disclosure Statement to Minister or the Director-General

If you are required under section 147(3) of the Environmental Planning and Assessment Act 1979 *to disclose any political donations (see Page 1 for details), please fill in this form and sign below.*

Disclosure statement details	
Name of person making this disclosure	Planning application reference (e.g. DA number, planning application title or reference, property address or other description)

Your interest in the planning application (circle relevant option below)

You are the APPLICANT **YES / NO** OR You are a PERSON MAKING A SUBMISSION IN RELATION TO AN APPLICATION **YES / NO**

Reportable political donations made by person making this declaration or by other relevant persons

** State below any reportable political donations **you have made** over the 'relevant period' (see glossary on page 2). If the donation was made by an entity (and not by you as an individual) include the Australian Business Number (ABN).*

** If you are the **applicant** of a relevant planning application state below any reportable political donations that you know, or ought reasonably to know, were made by any persons with a financial interest in the planning application, OR*

** If you are a **person making a submission** in relation to an application, state below any reportable political donations that you know, or ought reasonably to know, were made by an associate.*

Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation

Please list all reportable political donations—additional space is provided overleaf if required.

By signing below, I/we hereby declare that all information contained within this statement is accurate at the time of signing.

Signature(s) and Date

Name(s)

Cont...

Political Donations Disclosure Statement to Minister or the Director-General

Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation