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18 November 2019

Department of Planning, Industry and Environment  
GPO Box 39  
Sydney NSW 2001

Attn: Director Transport Assessments

Dear Sir/Madam,

## **SUBMISSION TO SSI-9364- M12 MOTORWAY ENVIRONMENTAL IMPACT STATEMENT – 1953 – 2109 ELIZABETH DRIVE, BADGERYS CREEK**

This submission has been prepared on behalf of Boyuan Holdings Limited (BHL Group) in response to the public exhibition of the Environmental Impact Statement (EIS) for the future M12 Motorway which has been declared critical State Significant Infrastructure under section 5.13 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979).

BHL has an interest in a landholding located at 1953 – 2109 Elizabeth Drive, Badgerys Creek (the land/landholding). As illustrated in **Figure 1** the proposed M12 alignment comprises approximately 60ha the 344ha landholding. The legal description of the site is Lot 101 in Deposited Plan 848215.

The landholding has a 1600m frontage to Elizabeth Drive and is located directly opposite the Western Sydney Airport site within the Northern Gateway precinct as identified within the *Western Sydney Aerotropolis Land Use and Infrastructure Implementation Plan Stage 1 – Initial Precincts* (LUIIP).

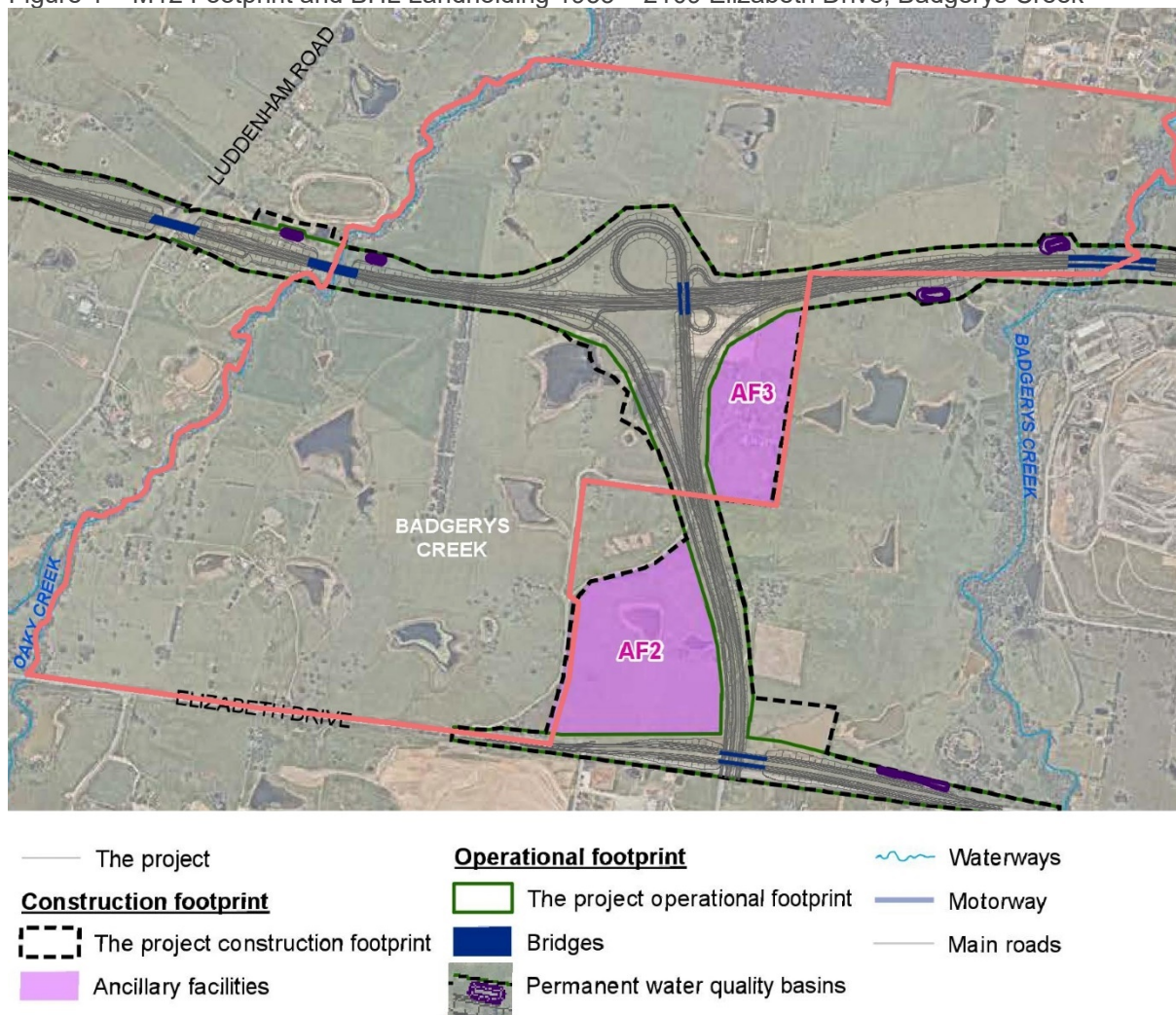
The land is largely cleared of vegetation with several dams, primarily within the central and southern parts of the site. The site is bound by Cosgroves Creek to the west and adjacent landholdings and Badgerys Creek to the east.

The BHL Group currently holds a put and call option over the property with the intention to develop the site aligned with the expected future planning framework associated with the development of Western Sydney Airport and Aerotropolis as outlined within LUIIP.

Our submission includes:

- An overview of the development background and previous submission to the preliminary design for the M12 motorway.
- Details of BHL's proposed development concept and master plan.
- Details of BHL's concerns in response to the M12 EIS and potential impacts on their landholding

Figure 1 – M12 Footprint and BHL Landholding 1953 – 2109 Elizabeth Drive, Badgerys Creek



## 1. BACKGROUND AND PREVIOUS SUBMISSIONS

BHL Group submitted a planning proposal to re-zone the landholding in May 2018. The planning proposal was supported by a mixed-use master plan aimed at delivering a significant number of new jobs for Western Sydney. The 2018 planning proposal was based on the State Government's establishment of the Western Sydney Priority Growth Area (2015) and intentions outlined within the Regional and District Plans (2018) to develop a new city on greenfield land around the airport to unlock opportunities for new jobs and homes in the heart of Western Sydney.

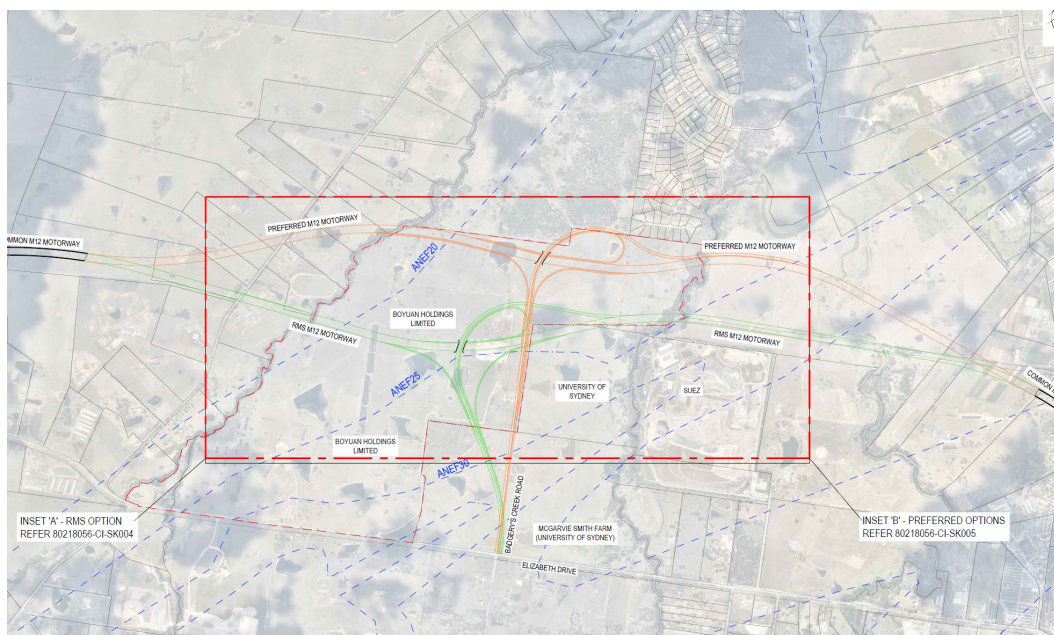
BHL also made a submission to the RMS in response to the public exhibition of the preliminary road design and access for the future M12 Motorway in 2018. The submission requested that the following key matters be considered in the final design being proposed within the SSI proposal (SSI-9364).

- The preliminary design would have a significant detrimental impact on the quality and quantity of developable area and result in significant land fragmentation.
- The preliminary design would mean a significant lost opportunity for Government in its efforts to deliver on the Objectives and Planning Priorities outlined within the Greater Sydney Region Plan and the Western City District Plan.
- That RMS consider a reasonable alternative corridor alignment that would retain the M12 Motorway within the northern part of the BHL land, while reducing the corridor's impacts on the development potential of the site.

BHL's 2018 submission outlined the following public benefits of an alternative alignment as illustrated in **Figure 2**, including:

- Preservation of an unparalleled opportunity to unlock the development potential of a large single landholding within the Western Parkland City adjacent to the new Western Sydney Airport.
- Delivery of the 30-minute Western Parkland City including substantial job creation and business investment aligned with the objectives of the Western City Deal, Greater Sydney Region Plan and Western City District Plan.
- Significant potential cost savings to the State Government regarding the construction and delivery of the M12 corridor (and associated future transport infrastructure).
- Economic and orderly use of the land in accordance with the Environmental Planning and Assessment Act 1979.

Figure 2 – BHL Proposed Alternative M12 Corridor Alignment – 2018



Source: Cardno, 2018



## 2. BHL'S PROPOSED DEVELOPMENT

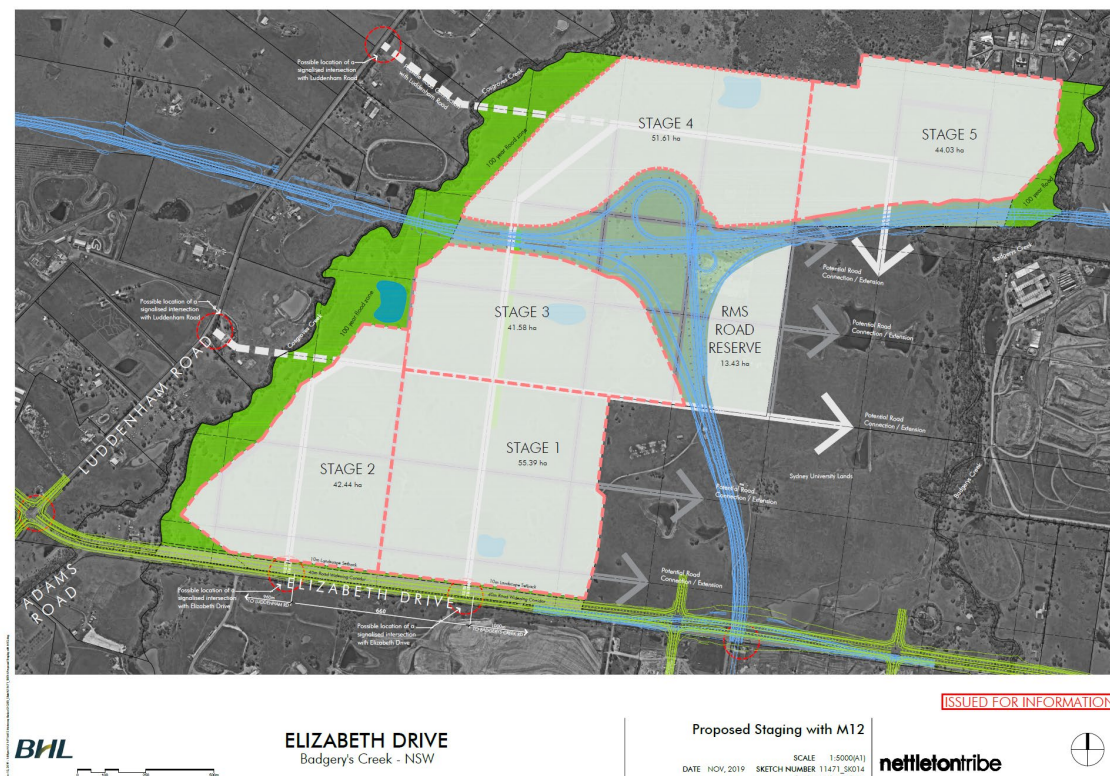
BHL has undertaken detailed background studies in relation to the land. These studies have informed the area available for development on the landholding based on existing known constraints.

Since 2018 BHL has continued to refine its proposed development intentions based on existing constraints and the expected planning framework outlined within the LUIIP and revised timeframes for the re-zoning of the Aerotropolis outlined within the *What We Heard Community Consultation Report* (Consultation Report) which has committed to releasing a draft planning framework by the end of 2019.

On this basis, BHL is also currently preparing a master plan layout for the site to inform future precinct planning for its landholding. This master plan layout includes an indicative internal road layout and possible connections into adjoining sites and across the exhibited M12 Corridor to the isolated land parcels to the north. This indicative layout is illustrated at **Figure 3**.

BHL Group is also currently preparing a more detailed master plan to inform a concept, and Stage 1 DA including early works for approximately 50ha of its landholding for a warehouse and logistics precinct which is aligned with the desired future land uses outlined within the LUIIP for the Northern Gateway.

Figure 3 – Future Road Network and Access Across M12 Footprint



Source: Nettleton Tribe - 2019

### 3. SUBMISSION AND RECOMMENDATIONS

BHL and their project team have undertaken a detailed review of the Environmental Impact Statement for the M12 Motorway dated October 2019 and supporting information available on the DPIE Major Projects website <https://www.planningportal.nsw.gov.au/major-projects/project/10226>.

BHL's key concerns in response to the M12 EIS and potential impacts on the landholding are outlined as follows.

1. **Availability of Developable Land** -The EIS states in Section 4.3 that a key assessment criterion for the route options was '*the integration with current and future land uses (that is non-sterilising)*'. However, we consider that the proposed route option and design has in fact an inverse affect and significantly impacts the landholding and its ability to rationally integrate with future land use.

Significantly the subject landholding is the only site large enough to accommodate the proposed airport access road interchange. Given the size of this interchange there is a risk of major fragmentation of what is the largest englobo landholding to the immediate north of the Western Sydney Airport. Good planning practice suggests that avoiding land fragmentation (when the option to do so clearly exists in this instance) will ensure the orderly and timely development of land consistent with broader land use planning objectives as currently detailed in the Stage 1 LUIIP.

Put simply, the planned M12 east-west corridor bisects the site, physically separating the northern and southern parts of the site. The interchange between the primary east-west corridor and north-south connection to the Western Sydney Airport exacerbates this impact by creating isolated pockets of land that will be difficult to develop in a sound and logical manner without any broad consideration of alternative access arrangements. This impact is likely to be further increased when the interchange is combined with the future M9 Outer Sydney Orbital Corridor.

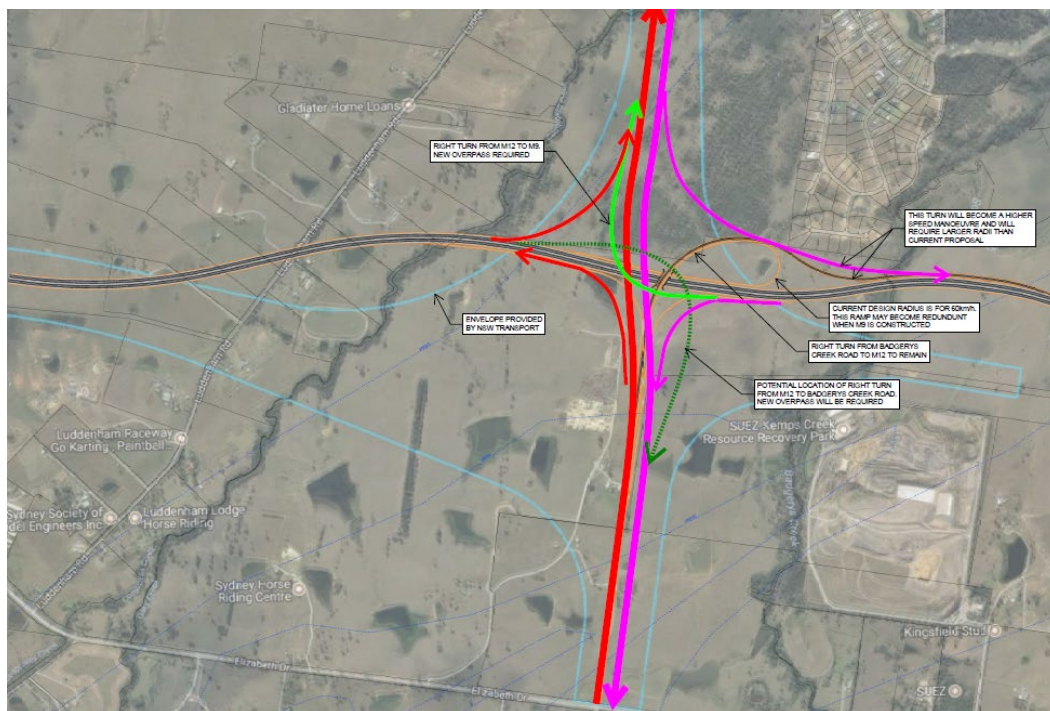
BHL is extremely disappointed that their original proposed corridor alignment as illustrated in **Figure 4** was not considered by RMS in the final alignment. This revised corridor alignment prepared for BHL by Cardno in 2018 and included in BHL's submission in response to the Preliminary Design for M12 Motorway. The revised alignment significantly reduced the potential for land fragmentation created by the proposed alignment by moving the alignment further north, generally parallel with the northern boundary of the site. Importantly, this alternative proposal retained the motorway corridor within the subject landholding. It maximises the opportunity to create a large consolidated developable area on the central and southern part of the site. It also provides for a more efficient interchange design which responds to the irregular configuration of the lot boundaries and minimises the area of land that will be isolated by the future road corridor.

Further to this we note that if the alignment could not change outside the site boundaries then a more logical outcome for the subject landholding would be to retain the motorway alignment as proposed outside of the site and propose a realignment of the motorway within the site. This alignment would have minimal impact on adjacent land however would see the alignment shift further north on as illustrated in **Figure 5**. This alignment improves the quality of the developable land within the BHL holding. The consolidation of the developable land offers greater flexibility to accommodate a variety of land use activities within a well-considered and compact site layout.

**BHL Recommendation – RMS must provide a solution to avoid the subject landholding being sterilised to future development. BHL have previously recommended that The M12 must be re-aligned further north on the land to maximise the development potential of the site as illustrated in Figures 4.**

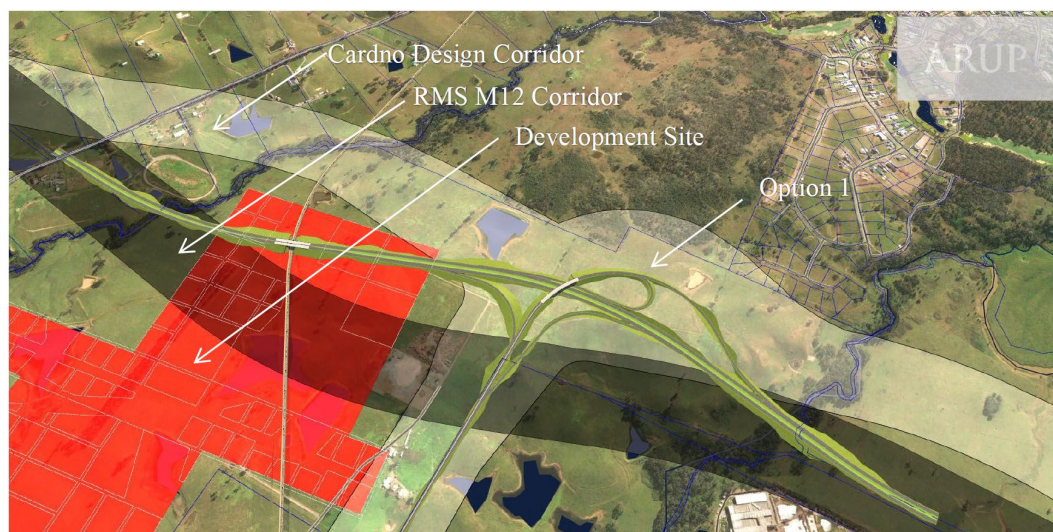


Figure 4 – Preliminary Working Drawing: M12 and M9 Intersection



Source: Cardno, 2018

Figure 5 – Alternate Motorway Alignment Option - ARUP



Source: ARUP, 2019.

2. **Land fragmentation limits future land uses** – The EIS noted that the preferred design option was considered to have the least land use impact. However, it is noted that none of the alternate options considered the significant land take impact of the proposed airport access interchange on the landholding. The design unnecessarily fragments this large, strategic landholding and will have a significant impact on the types of land uses and quality of the places that could be delivered. This would be inconsistent with the Objectives within the Greater Sydney Region Plan and the Planning Priorities within the Western City District Plan including the following direction in the Western City District Plan (p63):

*“In assessing potential infrastructure corridors, economic, social and environmental outcomes are considered as well as their integration with the long-term land use and transport vision for the area.”*

**BHL Recommendation - RMS must provide a solution to avoid the subject landholding being fragmented. BHL have previously recommended that the route be re-aligned further north on the landholding to maximise the development potential of the site as illustrated in Figure 4.**

3. **Integration between land use and infrastructure planning** – The design of the proposed M12 design does not adequately consider future land uses envisaged for the Aerotropolis within the LUIIP and as such fails to successfully integrate land use and infrastructure planning including optimising infrastructure, facilitating a competitive and efficient freight network and access to jobs which are key objectives of the Western District Plan.

**BHL Recommendation – RMS should improve access to the M12 from Elizabeth Drive to support future land uses within the Aerotropolis. An additional access point would support access to jobs within the Northern Gateway and facilitate future freight movements within the Aerotropolis by reducing regional freight movement within the local road network.**

4. **Integration with the future road network within the Aerotropolis-** The design of the M12 does not adequately detail how this critical piece of infrastructure would integrate into a future road network and does not consider how it would provide any benefits to people accessing jobs within the Northern Gateway.

**BHL Recommendation - Given the significant amount of strategic planning work being undertaken within the Aerotropolis, the design must consider how the future road network within the Aerotropolis could be planned to facilitate the land uses envisaged by the LUIIP and must demonstrate how connections can be made across the M12 and the airport access road into fragmented land parcels to the north, east and west of the subject landholding. RMS should also consider whether temporary haulage routes proposed across Cosgroves Creek can be retained as part of a future local road network.**

5. **Impacts property access (internal)** – We note that the RMS intends to compulsorily acquire land within the BHL site for the M12 motorway corridor. This would mean that a new parcel of land would be created to the north of the land being acquired for the M12. Whilst the land currently benefits from an existing access via Elizabeth Drive, this new parcel of land north of the M12 would be severed from this existing access and as a result of the compulsory acquisition become a landlocked land parcel.

The EIS is inconsistent in how it proposes to deal with access to landlocked land parcels. Section 5.23 of the EIS notes that property access provisions were developed on the principle of providing

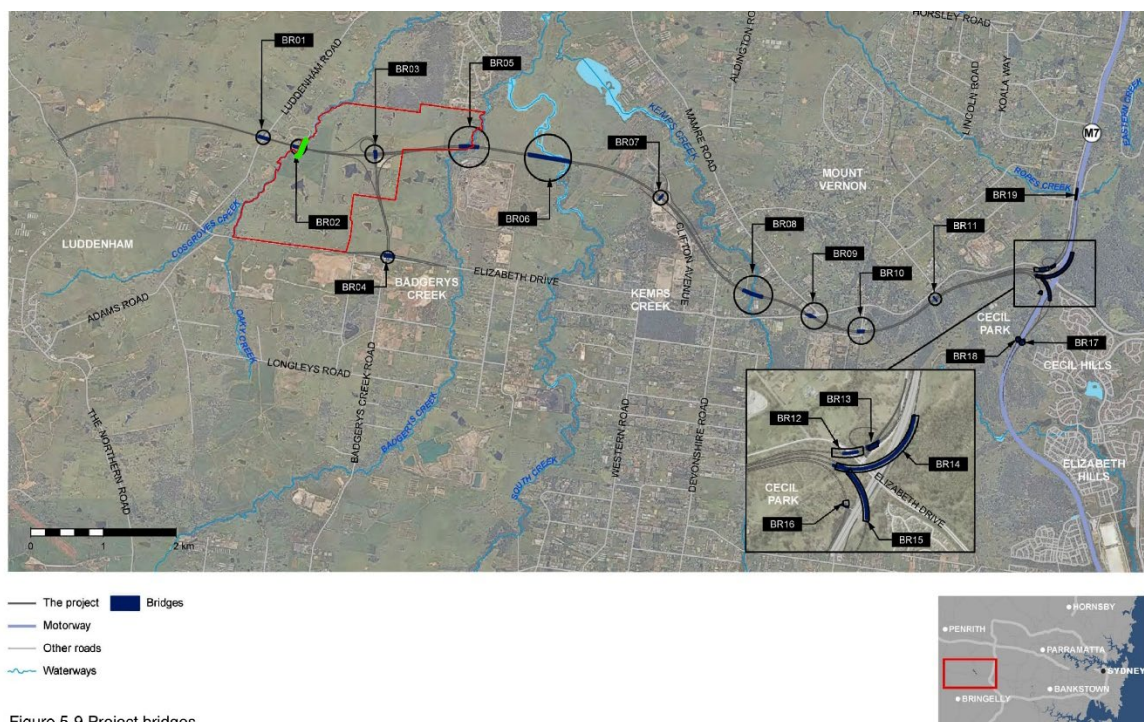


alternative access to landlocked land parcels by designing new access roads. Despite this principle the EIS provides no detail as to how it proposes to provide 'new access roads' to these landlocked land parcels which includes the BHL Landholding.

The proposed Environmental Management Measure (TT07) which relates to 'impacts on property access' does not reflect the principles for property access in section 5.23 of the EIS stated above. TT07 states that property access that is physically affected by the project will be reinstated to at least an equivalent standard and as such does not in any way guarantee that road access to the landlocked portion of land.

Further it is noted that the Access Strategy provided in the Transport and Traffic Report (Table 8-2 pp147) states that a property access path will be provided beneath BR02 (over Cosgroves Creek) to the divided portion of land (refer **Figure 6**).

Figure 6 – Proposed Access Path Location beneath BR02 (Green)



Source: RMS M12 EIS 2019

This proposed access path is wholly inadequate given the size of the site and the significant role this landholding will play in the development and early activation of the Aerotropolis as outlined in section 2 of this submission.

**BHL Recommendation – Grade separated road access must be provided to the parcel of land on the BHL landholding that will be isolated by the proposed M12 design. This road access must be centrally located as shown in Figure 3 and take into the future land uses on the site which could include warehousing and logistics, hi—tech industry, commercial, health and education uses.**



6. **Property Access (Internal)** – BHL understands that the proposed shared user path will pass under the airport access road.

**BHL Recommendation** – The shared access path must be combined with a future road to ensure connections into adjacent land as part of the future road network for the Aerotropolis. BHL requests more details around the shared user path and whether this path will allow for future connections into private land.

7. **Impacts to Property Access – Elizabeth Drive**; The EIS does not provide any detail on how the proposed Elizabeth Drive Overpass considers the future locations of intersections into the subject landholding.

**BHL Recommendation** – The EIS must provide more detail on how the Elizabeth Drive overpass has considered potential locations for access into the subject land holding west of the proposed airport access road.

8. **Construction Impacts (Access)** – BHL has significant concerns around the access to the landholding and the cumulative impacts that the construction will have on access for any future construction carried out concurrently for the first stage of BHL's proposed development.

**BHL Recommendation** – The construction of the M12 must not restrict or prejudice any future construction on adjacent land undertaken concurrently to the construction of the M12. Access to the landholding must be maintained at all times throughout construction. Any interruptions to access from Elizabeth Drive to the land must be mitigated through alternate access arrangements this includes providing access to the landholding via proposed Ancillary Facilities (AF2 and AF3) and via temporary haulage routes across Cosgroves Creek.

9. **Construction Impacts – Cumulative**: BHL has concerns around the potential for construction traffic delays along key haulage routes and other cumulative impacts when combined with other development within the Aerotropolis.

**BHL Recommendation** - RMS must engage with BHL on how they intend to manage cumulative impacts during construction given the likelihood of both developments happening at the same time.

10. **Construction Impacts – Extended Hours**. **BHL Recommendation** – the construction hours for the project must not impact upon BHL's construction program.

11. **Utility Services (Proposed)** – It is understood from the EIS that power and communications cabling will be installed along the length of project.

**BHL Recommendation** – BHL requests clarification from RMS on the capacity of the proposed power and communications cabling to be installed and whether there is potential for BHL to connect to these to provide services to the portion of BHL's landholding to be severed by the proposed M12.

- 12. Utility Services / Infrastructure (existing)** - BHL understands that as part of the project RMS will undertake ongoing consultation with utility providers with a view to refining potential utility modifications and utility protection measures during detailed design. In particular BHL notes that the EIS identifies existing overhead powerlines 1km to the north of Elizabeth Drive that will be relocated underground along a similar path to the existing powerline under the airport access road.

**BHL Recommendation – Details of all adjustments to existing infrastructure including relocation of utility services and any other relocation of services being proposed which may impact upon the landholding must be provided to BHL by RMS.**

- 13. Ancillary Facilities (Ancillary Facility 3 - AF3)** – BHL is aware of acquisition notices being issued for this land and note that this Ancillary Facility appears to be one of convenience due to location of existing structures. The EIS states that land for ancillary facilities would be subject to a temporary lease (p167). This conflicts with the property acquisition letter dated 02 September 2019 which notes that this 11.79ha portion of severed land is to be acquired by the RMS.

**BHL Comment – BHL seeks clarification from the RMS as to its intentions around this land noting that the intentions for this land stated in the EIS contradicts the property acquisition letter received by the landowner in September 2019.**

- 14. Land Acquisition – M9 Outer Sydney Orbital (OSO):** The EIS states that that the M12 between the Northern Road and the airport interchange would form the westbound carriageway with a new 4 lane eastbound carriageway built for the OSO.

**BHL Comment – It is assumed that sufficient land has been acquired to include these additional carriageways and that RMS will not be seeking to acquire additional land for the M9 OSO.**

- 15. Biodiversity – Fauna Passage** – BHL notes that a native fauna passage will be provided under BR02 over Cosgroves Creek.

**BHL Recommendation – The fauna passage must be suitable for livestock access across the M12 footprint noting that it is intended that some agricultural use will be maintained on the landholding in the short to medium term. Alternatively, a separate livestock access must be provided.**

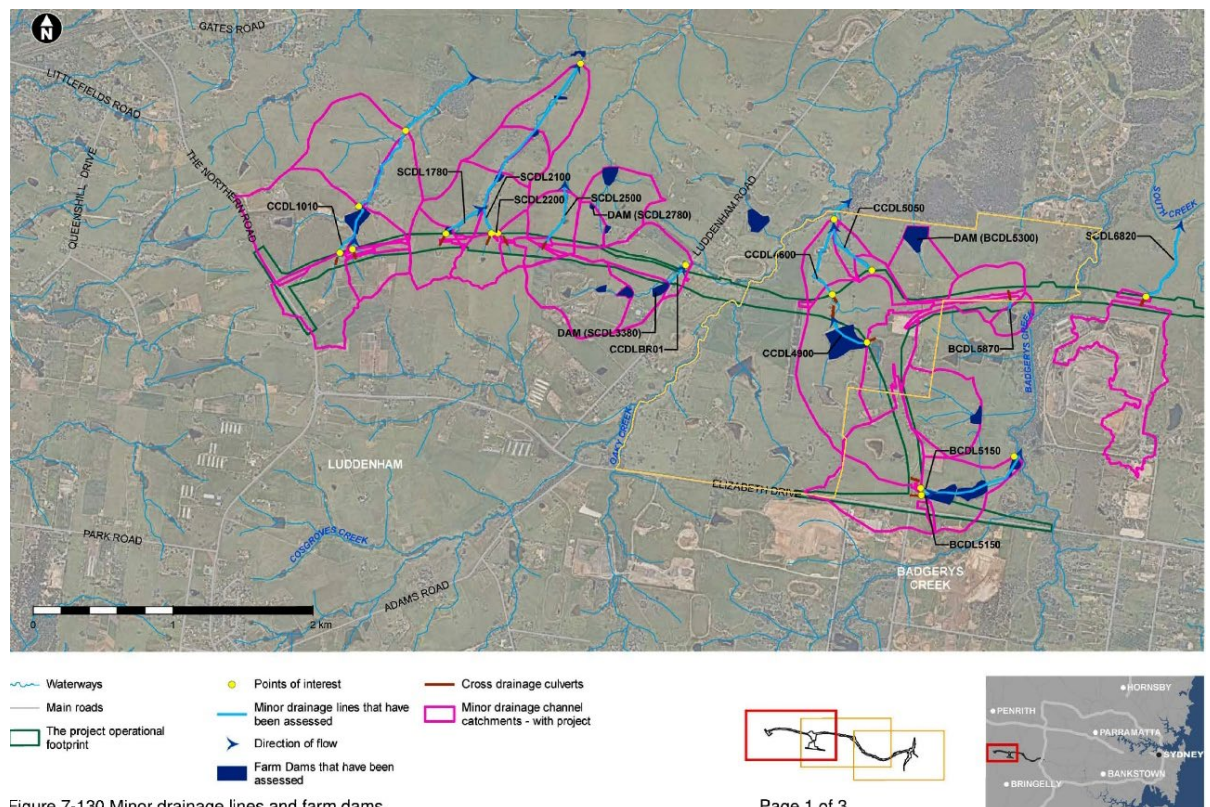
- 16. Flooding – Assessment of Cumulative Impacts** – BHL notes that the proposed design has not considered the cumulative impacts of flooding particularly considering the major development expected to occur in areas upstream of the project which would increase catchment runoff and that the any future developments and/or any such regional scale assessment would need to take into account the presence of the M12 Motorway within the landscape and/or results of the flood modelling from the project.

**BHL Recommendation – BHL submits that given that the extent of urban and non-urban land within the Aerotropolis has been known since the release of the LUIP in August 2018, the flood work undertaken by RMS should undertake an assessment the cumulative impact future development within the Aerotropolis boundary to ensure that the impact of the proposed Motorway does not adversely affect and or sterilise the development potential of adjacent land.**

**17. Surface Water – Drainage Lines & Dams** – BHL is extremely concerned at the potential for increased flows and residual impacts identified for Drainage Lines CC DL 4900, CC DL 4600 and CC DL 5050 (all located on the subject landholding – refer **Figure 7**) and identified within Table 7-140 of the surface water quality and hydrology assessment in EIS. These impacts include increased flows that may impact adversely on the performance of the spillway to the farm dam at this location. Despite the proposed mitigation measures the residual impacts include a minor increase in the rate and volume of runoff into the dam and that it is likely to fill and overtop more frequently due to these impacts.

**BHL Recommendation – The Motorway must not discharge water to overland flow paths such that any increase in rate and volume of runoff should impact upon impacts on private land to the extent that it would adversely affect the future development potential of the subject landholding. All management measures to control any flows and runoff from the M12 must be contained within the operational footprint. The EIS must include details of these measures to ensure there will be no increase to overland flow/flooding impacts from the M12 into private land.**

Figure 7 – Drainage Lines and Farm Dams



Source: M12 EIS, 2019



- 18. Surface Water - Drainage Lines & Dams: BHL Recommendation - RMS must provide details of all farm dams to be removed within the construction footprint.**

- 19. Aboriginal Archaeology** – BHL is concerned that Potential Archaeological Deposits (PADs) were identified within identified study area outside of the construction and operational footprint may be located on the subject landholding. In particular we note that there are potential archaeological deposits east of Cosgroves Creek and west of Badgerys Creek 1km north and south of the construction footprint.

**BHL Recommendation** – BHL notes that details of any PADs identified outside of the construction footprint have been redacted within the EIS. BHL requests these details to ensure that these can be cross referenced and included in any future Aboriginal Cultural Heritage Assessment undertaken in relation to the subject landholding.

- 20. European Heritage** – BHL notes that a mitigation measure has been proposed within the EIS to assist in funding a thematic heritage study of CSIRO and McMaster Field Station on the subject landholding:

**BHL Recommendation** – BHL request further details around this study and how this might be funded by RMS.

- 21. Visual Impacts** – BHL Recommendation - Landscape screening / mounding must be provided along the alignment of the M12 where it is not proposed within a cutting to reduce the overall visual impacts of the motorway to future land uses. Provision for this mounding and landscaping must be within the M12 footprint and not result in a further reduction in developable land on the subject landholding.

- 22. Acoustic Impacts** – The areas impacted the most by the M12 are the areas of the site which are less impacted by aircraft noise. The lack of any proposed noise mitigation measures would significantly restrict future land uses on the site and as such adversely affect the landholding. The EIS notes that requirements for mitigation measures will be reviewed as part of an Operational Noise and Vibration Review (ONVR) as the detailed design progresses:

**BHL Recommendation** – The ONVR must consider future land uses envisaged for the Northern Gateway within the LUIP which could include not only warehousing and logistics, but also hi—tech industry, commercial office, retail, health and education uses.

Appropriate noise mitigation measures must be provided to ensure that potential noise and vibration impacts from the M12 do not adversely affect the types of land uses that can be achieved on the adjacent landholding.

- 23. Acoustic Impacts** – The noise results detail that the BHL landholding will be the most affected by noise during both construction and operation.

**BHL Recommendation** - BHL notes the potential significant impact of construction noise will have on any future temporary land uses being considered by BHL and as such would request that RMS consult with them in relation to providing specific mitigation measures to ensure that these temporary uses are not significantly impacted.

- 24. Air Quality Impacts** - BHL notes the Air Quality assessment within Chapter 8.2 of the EIS states that receiver sensitivity to dust soiling was determined to have a medium risk around the BHL site. The assessment also noted that receiver sensitivity to human health effects would have a high risk of human health effects at the BHL site. Nevertheless, the EIS concluded that the project would

not lead to unacceptable air quality impacts, and that the need for more detailed assessment would not be required. This conclusion is based on the determination of potential local and regional impacts on air quality during both construction and operational stages, including potential cumulative impacts.

**BHL Recommendation – Any adverse impacts which adversely affect or restrict either temporary or future land uses on the adjacent land holding are unacceptable.**

25. **Contamination** – BHL is concerned at the level of contamination identified within the EIS noting that BH202 and BH 207 exceeded contaminant guidelines. BHL also questions the level of investigations undertaken in relation contamination within the identified study area.

**BHL Recommendation: BHL recommends that RMS undertake further studies in relation to all identified contamination and that it liaises with the relevant stakeholders to ensure any remediation is appropriately undertaken and does not adversely affect the development potential of adjacent land.**

## 4. CONCLUSION

The recommendations set out in this submission seek to ensure that the potential construction and operational impacts of the M12 do not impact upon adjacent land to the extent that future development on the adjacent landholding at 1953 – 2109 Elizabeth Drive, Badgerys Creek is not sterilised nor adversely affected.

BHL appreciates the opportunity to make a submission in response to the public exhibition of the EIS for M12 Motorway and would welcome ongoing dialogue with the Department of Planning Industry and Environment (DPIE) and the RMS throughout the stakeholder consultation process.

It is our strong view that the alignment of the M12 Motorway needs to be amended and refined to minimise its potential impacts on the economic, social and environmental outcomes for the BHL land and the delivery of the Objectives and Planning Priorities outlined within the *Greater Sydney Region Plan* and the *Western City District Plan*.

BHL would appreciate the opportunity to meet with the DPIE and RMS to discuss their submission in further detail.

If you have any questions, please don't hesitate to contact either the undersigned or Mr Christophe Charkos of this office on (02) 8233 9900.

Yours sincerely,

A handwritten signature in black ink, appearing to read "David Hoy".

David Hoy  
Director