



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
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14 December 2018

Ms Ann-Maree Carruthers
Director Sydney Region West
Department of Planning and Environment
Level 5, 10 Valentine Avenue
PARRAMATTA NSW 2124

Our Ref: 16/2018/PLP
Your Ref: PP_2018_THILL_005_00

Dear Ann-Maree,

Gateway Extension Request – Planning Proposal – Edwards Road, Rouse Hill (16/2018/PLP)

I am writing to request an extension of time to complete the planning proposal for a portion of land within the Edwards Road Employment Area, Rouse Hill. The proposal seeks to rezone the subject site from B6 Enterprise Corridor to SP2 Local Road Widening for the purpose of constructing an approach road and a vehicular bridge over Smalls Creek between Ross Place, North Kellyville and Edwards Road, Rouse Hill and identifying the land for acquisition within the Land Reservation Acquisition Map. The Gateway Determination requires the planning proposal to be completed by 2 January 2019.

The planning proposal was publicly exhibited from Tuesday 7 August 2018 to Friday 7 September 2018 however it will not be possible to finalise the proposal by 2 January 2019 and an extension of time specified within the Gateway Determination is formally requested on the basis that:

- Council is currently in the process of having a Review of Environmental Factors prepared by an external consultant to address a range of issues raised in the submission from the Office of Environment and Heritage received on 20 September 2018. The OEH submission raised concerns regarding the adequacy and age of the ecological assessment incorporated with the planning proposal and potential biodiversity impact of the road. A copy of the OEH submission is attached for your reference.

Given delays experienced in responding to the OEH submission (largely outside of Council's control), it is requested that an extension of time to complete the planning proposal be granted for a further 9 months to 2 October 2019.

Thank you for your consideration of this matter. Should you require any further information please contact Jane Kim, Senior Town Planner on 9843 0185.

Yours faithfully



Nicholas Carlton
PRINCIPAL PLANNING COORDINATOR

Attachment: Submission prepared by the Office of Environment and Heritage, dated 13 September 2018



**Office of
Environment
& Heritage**

ATTACHMENT

DOC18/561252
16/2018/PLP

The General Manager
The Hills Shire Council
PO BOX 7064
NORWEST NSW 2153

Attention: Jane Kim

Planning Proposal to rezone land to SP2 Local Road Widening to facilitate a road and bridge crossing over Smalls Creek

Dear Mr Edgar,

I refer to Council's letter to the Office of Environment and Heritage (OEH) received 8 August 2018 requesting comments on the above Planning Proposal (PP).

The proposal seeks to amend The Hills LEP 2012, as it relates to land at 282 Annangrove Road, 290-312 Annangrove Road, 20 Edwards Road and 31 Edwards Road, Rouse Hill, to rezone a portion of the land from B6 Enterprise Corridor to SP2 Local Road Widening for the purpose of constructing an approach road and bridge connection over Smalls Creek between Ross Place, Kellyville and Edwards Road, Rouse Hill. The land is also proposed to be identified for acquisition within the Land Reservation Acquisition Map of the LEP.

OEH has reviewed the proposal and related documentation and provides detailed comments at Attachment 1. OEH comments on floodplain risk management will be forwarded separately after OEH completes its assessment of this matter.

Should you have any queries regarding this matter, please contact Svetlana Kotevska on 8837 6040 or Svetlana.kotevska@environment.nsw.gov.au.

Yours sincerely

S. Harrison 13/09/18

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney
Communities and Greater Sydney Division

ATTACHMENT 1 – Office of Environment and Heritage comments on Planning Proposal to rezone land to SP2 Local Road Widening to facilitate a road and bridge crossing over Smalls Creek

Background

The concept road alignment that is the subject of the proposed rezoning, traverses a portion of land within the Annangrove Road Employment Area partly along the existing unformed Edwards Road (dirt road) and joining the end of Ross Place, North Kellyville Precinct via a proposed bridge crossing. The bridge is proposed to cross over Smalls Creek and this creek and its riparian corridor is mapped as a non-certified area containing both existing native vegetation and native vegetation retention area. Smalls Creek (also known as Caddies Creek) is identified within a Riparian Protection Area under the State Environmental Planning Policy (Sydney Region Growth Centres) 2006, North Kellyville Precinct Plan.

Council's Planning Proposal states *"identified within the Indicative Layout Plan for North Kellyville Precinct was a new northern collector road connection between Ross Place to Annangrove Road (via Edwards Road) reflecting the recommendations from supporting traffic and environmental assessments"*. OEH notes that the indicative Layout Plan for North Kellyville Precinct was a draft layout plan. Further, the proposal states *"This specific road corridor is identified under the Structure Plan under the Sydney Region North West Growth Centres (Edition 3)"*.

While the road corridor was shown on existing land use planning documents, it is unclear and unlikely that there were any supporting ecological studies that identified the subject lands constraints and biodiversity values in the early high-level planning stage. Further the subject area (excluding Smalls Creek itself) is not within any of the North-West Precinct Plans which means it is more likely that when these plans were developed showing an indicative road there was no ecological study of this area. The area is excluded from both the Box Hill Industrial and North Kellyville Precincts Plans in the North-West Growth Area.

Council's Edwards Road Precinct Masterplan 2013 shows that part of the land the subject of this rezoning and surrounding the proposed road is environmentally constrained land particularly to the east approaching Smalls Creek. Most of the area proposed for this rezoning was identified as highly constrained on the indicative draft masterplan concept plan (Figure 17). The constraints map prepared by Ecological in the Flora and Fauna (F&F) Constraints Assessment (ELA 2012) also identified the area as not suitable for development on the map titled 'Suitability for Development' and part of the land as a priority area for restoration, regeneration and revegetation. The F&F Constraints Assessment found that most of the vegetated areas were of high or moderate ecological value with the vegetation communities in good condition given the majority of the subject area contained 'very high': intact canopy, mid-storey and ground layers present.

OEH wrote previous letters to Council dated 16 August 2013 and 3 October 2013 relating to the rezoning of the Annangrove Road Light Industrial Area to B6 Enterprise Corridor which includes this Edwards Road Precinct that is the subject of this Planning Proposal. OEH advised in 2013 that the Planning Proposal could not be supported in its current form due to impacts on an area of high biodiversity and conservation values. It is noted that this Planning Proposal relates to a smaller area proposed to be rezoned SP2 to facilitate a road and bridge over Smalls Creek, however it is in the same precinct and has the same conservation values. As such OEH previous comments are also relevant to this current Planning Proposal such as avoiding areas of biodiversity value and protecting these through a suitable conservation zoning.

OEH raised the following specific concerns relating to biodiversity, Aboriginal cultural heritage and flooding.

1. Biodiversity

- Section C (Environmental, Social and Economic Impact) of the Planning Proposal relies on the results of a Flora and Fauna Assessment (ELA 2012). OEH notes this report was not a complete Flora and Fauna Assessment but a Flora and Fauna Constraints Assessment (FFCA), which includes several limitations (section 2.2.1). These include that no fauna assessment was undertaken, just opportunistic sightings and only a rapid flora assessment was undertaken to identify vegetation types and fauna habitat identification. OEH also notes that the report is six years old and does not cover the entire area of the proposal (i.e. the section of the proposed road corridor east of Caddies Creek has not been assessed). Further the report acknowledges its own limitations as a 'constraints assessment rather than a study such as an impact assessment or biodiversity study'.
- There are a number of records of threatened fauna species in the locality, particularly threatened birds and threatened microchiropteran bat species.
- There are also records from 2013 of Yellow-bellied Gliders which are only 300m away from the proposal. If this species is present, the proposal is likely to remove habitat and disrupt movement of this species. According to the Recovery Plan for Yellow-bellied Gliders (OEH 2003), the creation of barriers to movement (such as roads and loss of trees) and the reduction in size of forested areas, can act as a dispersal barrier. Creation of such barriers can increasingly isolate populations or family groups, which can decrease population viability and increase the risk of localised extinction.
- It appears from the FFCA, the proposal will result in the removal of the critically endangered ecological community (CEEC), Shale/Sandstone Transition Forest and fragmentation and likely degradation of any remaining vegetation at this location.
- According to the FFCA, the proposed road corridor will be traversing an area of conservation significance, i.e. the vegetation where the road is to be located is identified in the report as:
 - 'high' threatened flora and fauna habitat value (where 'high' is the highest category) (Fig 13)
 - 'core habitat' (where core habitat is the highest significance category) (Fig 14)
 - 'high' constraint (Fig 16)
 - an 'area of biodiversity value to be considered for retention' (Fig 18)
 - also, two wildlife corridors are identified across the FFCA study area, both of which will be fragmented by the proposed road (Figure 15)
- Section C of the Planning Proposal states that because the road corridor is designated in existing land use planning documents, then its impacts will be negligible. However, OEH does not consider that the identification of a proposed road corridor in planning documents in any way reduces its ecological impact.
- OEH suggests Council should consider whether it is possible to relocate the road to an area that is currently disturbed, and so avoid some of its impact on a CEEC and potential threatened flora and fauna habitats. Examples include locating the road adjacent to the existing powerline easement (which runs parallel to Edwards Road, 100m to the south) or relocating the Caddies Creek crossing to the area of vegetation disturbance just south of the residence on Lot 1 DP 1032790.
- In Council's Planning Proposal *Figure 4 - Aerial image denoting the concept approach road and bridge* that the proposed rezoning to facilitate a road over Smalls Creek will also facilitate an extension to Mile End Road that will link up with the Edwards Road. This road extension will also impact on the critically endangered ecological community of SSTF and further fragment this wildlife corridor. It does not appear that Council has undertaken any cumulative assessment to date to inform the proposed location of these new roads and extensions and the impacts to this CEEC.

- OEH considers that through better site planning that this area can be protected and retained, rather than cleared. The development proposed currently fails to address the Biodiversity Act 2016 objectives of avoiding and minimising impacts on biodiversity values.
- The priorities and strategies relevant to this Planning Proposal in the Central City District Plan (March 2018) include:
 - **Planning Priority N13.** *Protecting and improving the health and enjoyment of the District's waterways.* There is no detail in this planning proposal regarding managing runoff and water quality, litter, erosion and sedimentation associated with the proposed road and bridge, and minimising impacts on Smalls Creek and its riparian corridor.
 - **Planning Priority N15.** *Protecting and enhancing bushland, biodiversity and scenic and cultural landscapes.* This priority gives effect to the regional plan A *Metropolis of Three Cities Objective 27 Biodiversity is protected, urban bushland and remnant vegetation is enhanced*
 - **Planning Priority N16:** *Increasing urban tree canopy cover and delivering Green Grid connections.* To achieve this priority the District Plan identifies the following priority corridors and targets:
 - The Caddies Creek Corridor (Smalls Creek) is identified for recreation, walking and cycling, urban greening, improved water quality and stormwater treatment and ecological protection, and to create east-west links to provide access between the parallel creek corridors.
 - Opportunities for green grid connections are identified nearby on Annangrove Road.
 - The NSW Government has set a target to increase tree canopy cover across Greater Sydney to 40 per cent.

The Planning Proposal appears to be inconsistent with these Planning Priorities given the proposed clearing of the remnant vegetation to facilitate the road connection. The area the subject of this rezoning is within core habitat linking two creeks, the Cattai and Caddies Creek corridors. It is essential to avoid fragmentation of significant and critically endangered vegetation communities that provide habitat connectivity. The ELA F&F Constraints Assessment (2012) identified that the Annangrove Road Light Industrial Precinct as containing three vegetation communities, the Shale Sandstone Transition Forest (SSTF), River-Flat Eucalypt Forest (RFEF), and Cumberland Plain Woodland (CPW).

- It is unclear why the biodiversity values identified in the Flora and Fauna Constraints Assessment (2012) for the Annangrove Road Light Industrial Precinct are not reflected and shown in The Hills Shire Council LEP 2012 Terrestrial Biodiversity map and why this map has not been updated to reflect the studies Council commissioned.
- The proposal is inconsistent with Council's DCP Section 2.13 objectives relating to biodiversity which states "*To conserve and protect the biodiversity of the Shire including habitats of threatened flora and fauna species and communities.*"
- The area the subject of this rezoning is bushfire prone land containing Vegetation Category 1 and buffer. It is unclear whether this will result in further fragmentation of the EEC to reduce bushfire risk for any asset protection zones and whether this has been adequately assessed in the Planning Proposal.
- It does not appear that this proposed road corridor is identified on the map titled "land to which this Contributions Plan No.13 – North Kellyville Precinct applies" as shown on the map in the report to Council dated 10 April 2018.
- The Planning Proposal does not detail the areas of the proposed road and the extent of proposed clearing of the vegetation and CEEC nor does it detail the offsets that would be required which should only be considered as a last resort where impacts are unavoidable. It is understood that Council has concept designs of the proposed road/bridge and has received quotations on the cost of the works. No detail of the design was included in the Planning Proposal documentation.

- A Conservation Area Management Plan (CAMP) should be developed as recommended in the FFCA by ELA.
- OEH questions the need for this road connection given that Annangrove Road is located a short distance away to the north (max of 338m at the furthest point).

2. Aboriginal Cultural Heritage

OEH reiterates its concerns regarding Aboriginal cultural heritage as stated in its letter dated 16 August 2013, that no assessment has been undertaken in relation to the proposal's impact on Aboriginal cultural heritage. The rezoning will facilitate a road and bridge crossing in an area where OEH records indicate the presence of Aboriginal sites particularly adjacent to Smalls Creek in the location of the proposed bridge crossing. There is also extensive remnant vegetation near the creek. This further implies that it is probable that Aboriginal objects are located within the proposed development area. An assessment needs to be undertaken to determine if this is the case as previously advised.

Given the above, OEH strongly recommends that an Aboriginal cultural heritage assessment be undertaken to inform the planning proposal and include:

- an archaeological assessment – involving the identification and assessment of Aboriginal objects (often referred to as 'sites') and their management based on archaeological criteria and
- a cultural heritage assessment – involving consultation with Aboriginal stakeholders (groups and individuals) and can include historical and oral history assessment and broader values assessment (e.g. landscape and spiritual values).

OEH also notes that the planning proposal refers to the *Section 9.1 Ministerial Direction 2.3 Heritage Conservation*. The planning proposal states it is consistent with this Direction in relation to indigenous heritage significance. However, the planning proposal does not refer to any Indigenous Heritage Study that has been completed for this site to be able to confirm that Aboriginal Heritage has been adequately considered, protected or the impacts mitigated.

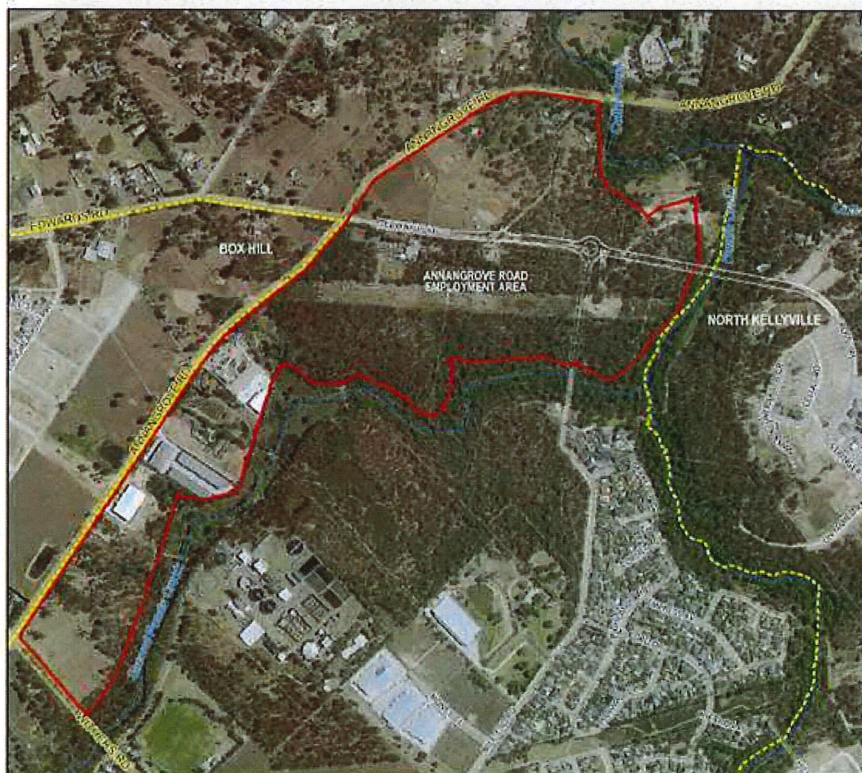
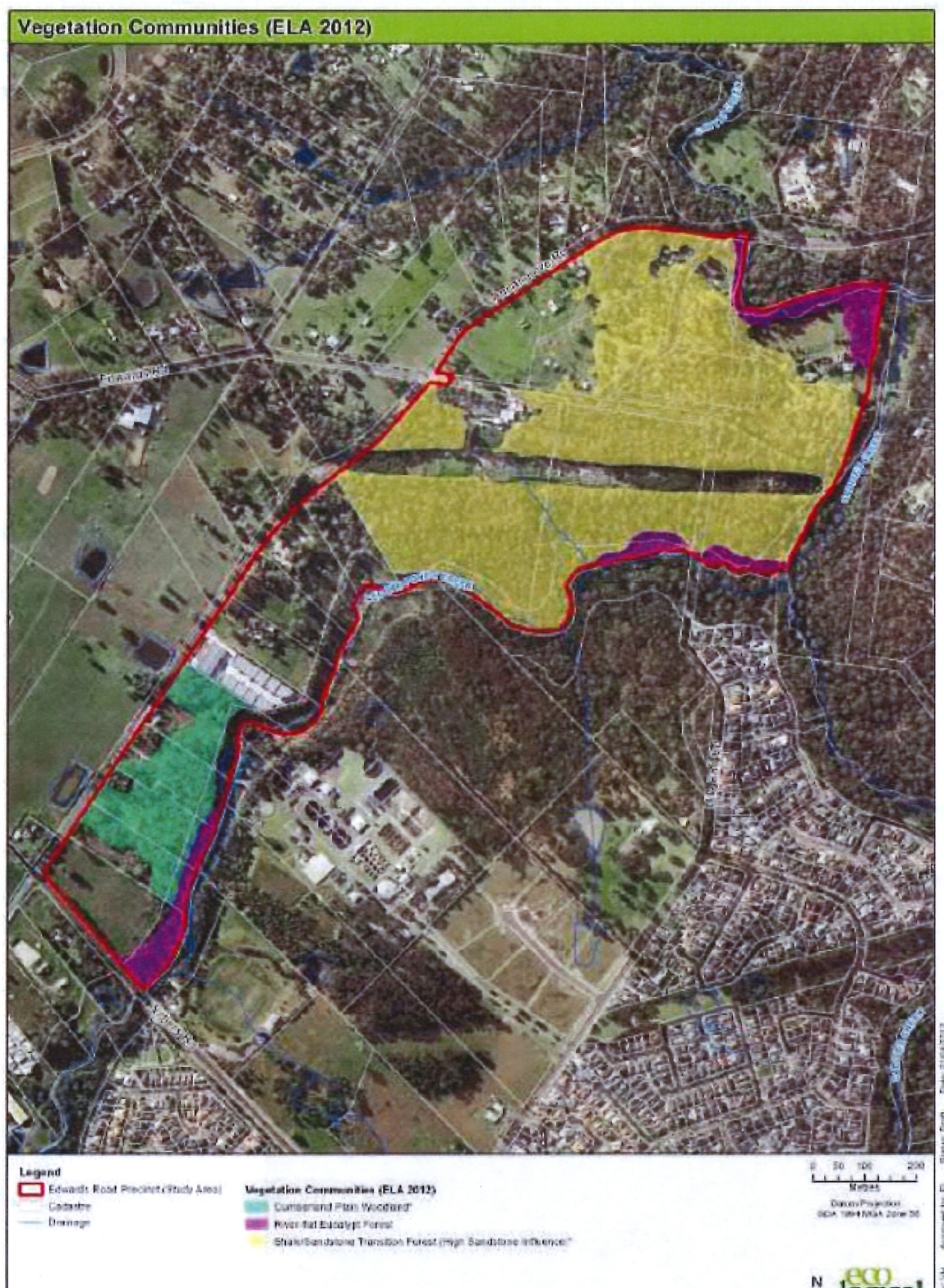


Figure 4
Aerial image denoting the concept approach road and bridge



(END OF SUBMISSION)



**Office of
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The General Manager
The Hills Shire Council
PO BOX 7064
NORWEST NSW 2153

Attention: Jane Kim

Planning Proposal to rezone land to SP2 Local Road Widening to facilitate a road and bridge crossing over Smalls Creek

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The proposal seeks to amend The Hills LEP 2012, as it relates to land at 282 Annangrove Road, 290-312 Annangrove Road, 20 Edwards Road and 31 Edwards Road, Rouse Hill, to rezone a portion of the land from B6 Enterprise Corridor to SP2 Local Road Widening for the purpose of constructing an approach road and bridge connection over Smalls Creek between Ross Place, Kellyville and Edwards Road, Rouse Hill. The land is also proposed to be identified for acquisition within the Land Reservation Acquisition Map of the LEP.

OEH has reviewed the proposal and related documentation and provides detailed comments at Attachment 1 in relation to flooding. This is further to OEH letter dated 13 September 2018 in relation to biodiversity and Aboriginal Cultural Heritage.

Should you have any queries regarding this matter, please contact Svetlana Kotevska on 8837 6040 or Svetlana.kotevska@environment.nsw.gov.au.

Yours sincerely

S. Harrison 19/09/18

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney
Communities and Greater Sydney Division

**ATTACHMENT 1 – Office of Environment and Heritage comments on
Planning Proposal to rezone land to SP2 Local Road Widening to facilitate a road and bridge
crossing over Smalls Creek**

Floodplain Risk Management

The Hills Shire Council Report dated 25 May 2018 states

‘the proposed road corridor as a whole will traverse land zoned SP2 Drainage Reserve, in relation to the management of overland flow path in the event of 1 in 100 year flood event. It is noted that the portion of the road corridor over the potential flood prone land will be a vehicular bridge, for which details will be confirmed to ensure that the final design will be in accordance with all relevant traffic engineering specifications and standards’.

OEH recommends that Council considers overland flow path for the full range of events up to the probable maximum flood (PMF) in the detailed design stage. Events particularly larger than the 1% AEP (the 1 in 100 year flood event) should be considered from an emergency management perspective to ensure that emergency management measures are incorporated in the final design. These measures may include safety signs and/or bridge closure procedures if required.

(End of Submission)