

Sandra Fagan, Senior Planner  
c/- Penrith City Council  
PO Box 60  
PENRITH NSW 2751

Dear Ms Fagan,

**DA19/0826 at No's 1669-1723 Elizabeth Drive, Kemps Creek**

Thank you for the opportunity to provide feedback from the Western Sydney Planning Partnership (the Partnership) in relation to the revised plans and additional information dated 12 October 2020 accompanying Development Application (DA) 19/0826 at No's 1669 - 1723 Elizabeth Drive, Kemps Creek.

This letter provides an updated response from the previous advice dated 15 May 2020 by the Partnership, incorporating advice based on the finalisation of the Planning package on 11 September 2020 and recent release of the Draft Precinct Planning Package for public comment. It is respectfully requested that both Penrith City Council and the Sydney Western City Planning Panel consider the matters raised in Attachment 1 when assessing the application.

In summary, the Partnership has concerns regarding the amount of proposed fill for the site, vegetation removal, visual impacts and interface with adjoining properties and the loss of Aboriginal and non-Aboriginal heritage on the subject site. Whilst it is acknowledged the application was lodged prior to the finalisation of the Planning Package in September and recent release of the Draft Precinct Planning Package on 10 November 2020, the application is not consistent with the vision for the Badgerys Creek Precinct.

If you have any more questions, please contact Lance Collison, Senior Planning Officer, Planning Partnership Office on 9860 1536 or via email at [Lance.Collison@planning.nsw.gov.au](mailto:Lance.Collison@planning.nsw.gov.au).

Yours sincerely



**Andrew Jackson**  
**Director**  
**Western Sydney Planning Partnership**

1 December 2020

## Attachment 1

### Strategic Planning Context

The Western Sydney Aerotropolis Planning Package was on public exhibition between 6 December 2019 and 13 March 2020. The package includes:

- Draft Western Sydney Aerotropolis Plan (WSAP);
- Western Sydney Aerotropolis Discussion Paper on proposed State Environmental Planning Policy (SEPP); and
- Draft Western Sydney Aerotropolis Development Control Plan (DCP) Phase 1.

During the exhibition of the Package, the proponent also lodged a submission which discusses their intent to lodge a modification request to their existing consent.

On 11 September 2020, this Package was finalised. This comprises of a

- Western Sydney Aerotropolis Plan (WSAP)
- Western Sydney Aerotropolis Plan Finalisation Report
- Western Sydney Aerotropolis (Aerotropolis) State Environmental Planning Policy (SEPP)
- Amendment to the Environmental Planning and Assessment Regulation 2000
- New Ministerial Direction 7.8 Implementation of Western Sydney Aerotropolis Plan
- Western Sydney Aerotropolis Development Control Plan (DCP) Phase 1

The site Lot 5/DP860456, straddles the Badgerys Creek Precinct and Wianamatta-South Creek Precinct. The Western Sydney Aerotropolis Plan outlines principles for planning for each precinct. Badgerys Creek Precinct is identified for primarily employment generating uses while Wianamatta- South Creek Precinct has been primarily identified for biodiversity conservation and enhancement, open space and recreation facilities.



**Figure 1: Site location and proposed zoning within the Aerotropolis SEPP**

### **Application assessed against the Western Sydney Aerotropolis State Environmental Planning Policy (SEPP).**

Clause 53 - Savings and transitional provisions of the SEPP applies to this DA, noting:

- (1) A development application for development on land to which this Policy applies that was lodged and not finally determined before the commencement of this Policy is to be determined as if this Policy had not commenced.*

Therefore, the comments noted below is provided as advisory only.

The portion of the site where the works will occur is zoned 'Enterprise' under the Aerotropolis SEPP. Waste disposal facilities are permissible with consent in this zone.

The Enterprise zone has the following objectives,

- To encourage employment and businesses related to professional services, high technology, aviation, logistics, food production and processing, health, education and creative industries.
- To provide a range of employment uses (including aerospace and defence industries) that are compatible with future technology and work arrangements.
- To encourage development that promotes the efficient use of resources, through waste minimisation, recycling and re-use.
- To ensure an appropriate transition from non-urban land uses and environmental conservation areas in surrounding areas to employment uses in the zone.
- To prevent development that is not compatible with or that may detract from the future commercial uses of the land.
- To provide facilities and services to meet the needs of businesses and workers.

It is considered the proposed waste disposal facility is consistent with these objectives. The importation of fill will not prevent future commercial uses on the land. It is noted proposed works will support re-use of fill generated offsite from nearby large state significant infrastructure projects.

### **Part 3 Development controls—Airport safeguards**

A key planning objective for the Western Sydney Aerotropolis is to safeguard the 24-hour operations of Western Sydney International (Nancy-Bird Walton) Airport. The SEPP provides further detail on airport safeguarding. The DA can be assessed against Clause 21 of the SEPP.

The site is partially within the 3 km wildlife buffer zone on the Wildlife Buffer Zone Map of the SEPP and waste or resource management facilities are prohibited in this buffer zone. These facilities generally consist of outdoor processing, storage or handling of organic or putrescible waste. It is acknowledged the development as proposed will only import clean fill to the site and this clause may not be applicable. Nevertheless, should a consent be granted, it must be made clear that outdoor processing, storage or handling of organic or putrescible waste cannot occur.

### **Application assessed against the Western Sydney Aerotropolis Plan (WSAP)**

The WSAP establishes a vision, objectives and principles for the development of the Aerotropolis. The Badgerys Creek precinct is identified for commercial or industrial uses and may initially support the infrastructure that enables the construction of the Airport and Aerotropolis.

Page 68 of the WSAP outlines the strategic outcomes for the precinct:

- Provide an appropriate and activated interface with Wianamatta–South Creek.
- Airport Ring Road(s) and access to Airport Commercial Precinct.
- Consider interface treatments between existing quarrying operations and adjoining development.
- Allow enabling industries to facilitate construction of Aerotropolis to locate here with appropriate interface treatments to adjoining development.
- Provide a mix of commercial and light industrial activities to support the Airport which can adapt to higher order uses over time
- Facilitate high technology industrial development which may include defence and aerospace to support the operations in the Aerotropolis Core.
- Provide appropriate landscaping along Elizabeth Drive to reflect a major entry to the Aerotropolis, subject to Aviation/Airport safeguarding requirements.
- Rationalise access points on Elizabeth Drive and connect to the local road network to service private development
- Support Elizabeth Drive as a city serving road corridor through an appropriate road layout and subdivision pattern.

It is unclear if the revised plans will allow for an activated interface with Wianamatta-South Creek. The revised documentation offsets earthworks by approximately 50 metres from the 1 in 100-year flood extent as detailed within the Wianamatta-South Creek precinct boundary. This is confirmed in the Planning Package consistency letter provided by the applicant.

Nevertheless, it is unclear how land in this 50m wide buffer area adjacent to 1 in 100-year flood extent can be used for in the future; and how land in this location will be accessed. Immediately to the west of this 50m wide buffer is 1:4 gradient sloping land which appears to be close to be 40m wide. It is also unclear how land in this 1:4 gradient can be used in the future. The Partnership is of the view the Proponent should consider stepping down of the site more in line with existing natural ground levels.

It is noted in the Planning Package consistency letter that: *'Earthworks levels and benching arrangement follows the natural topography and tiers towards the Wianamatta-South Creek to the east therefore enabling greater opportunities for future built form (subject to future application) to benefit from views to these creek lines.'*

It is considered the proposed benching arrangement are not appropriate for the site, and the final levels can be stepped down much more towards Wianamatta-South-Creek to allow for views to locations from the creek line.

The filling of the site is further discussed later in this assessment.

The increased 30m setback to Elizabeth Drive for the filling works is noted. This may support Elizabeth Drive as a city serving road corridor.

#### **Application assessed against the Western Sydney Aerotropolis Development Control Plan Phase 1 (DCP)**

Section 2.4.2 of the DCP has the following objectives for the Badgerys Creek precinct:

- a) Facilitate high-quality and innovative development.
- b) Facilitate a wide variety of employment uses.

- c) Facilitate compact urban development well connected to functional, green, private open spaces.
- d) Allow for the successful implementation and integration of the blue-green grid for the Western Parkland City.
- e) Protect the operations of the Airport, including 24-hour operations, and provides appropriate protections for the community.
- f) Encourage the location of enabling land uses that will support the development and construction of the Aerotropolis and transition to permanent employment generating land uses over time.
- g) Require buildings to integrate with creek lines to improve the amenity for workers.
- h) Built form to have a high level of visual interest utilising passive elements that mitigate climatic factors including increased solar gain.
- i) Provide safe, activated, interesting and healthy streets with pedestrian, cycle and public transport movements prioritised.
- j) Innovative development embraces and promotes new and emerging technologies and utility provision.
- k) Support and integrate sustainable energy, waste and water as well as a circular economy into development and operations.
- l) Achieve high levels of water retention in the landscape to achieve healthy waterways, facilitate and support effective flood mitigation.
- m) Ensure that design minimises energy and optimises water management providing pathways to net zero emissions and enhancement of environment across the entire Aerotropolis.

It is considered that most of the above objectives are not relevant to the DA as the filling of the site will facilitate its future development. However, with the large amount of fill proposed to be located on site, it is unclear how the proposed development will be able to integrate with creek lines to improve the amenity for workers.

### **Draft Precinct Planning Package**

On the 10 November 2020, the draft precinct planning package for the initial precincts within the Aerotropolis was released for exhibition. The draft planning package comprises of:

- draft Western Sydney Aerotropolis Precinct Planning report,
- draft supporting technical studies,
- draft urban design and landscape plans for the initial precincts and
- draft SIC.

It is noted the application was lodged prior to exhibition of and completion of draft precinct planning package.

Nevertheless, an assessment of the proposed development against the draft precinct planning package is provided. It is the view of the Partnership; the revised proposal may not be able to deliver and support the proposed layout as depicted in the draft precinct plan. The proposed location of batters associated with the landfill contradict the location of proposed roads, open space and identified land uses as per page 127 of the draft precinct plan.

Furthermore, the Western Sydney Aerotropolis Precinct Planning report shows,

- An indicative precinct layout including a street network through the subject site including an Eastern Ring Road extension to the north of Elizabeth Drive as well as other industrial streets; and
- The sequencing plan on Page 211 shows this is a first stage priority site.

The proposed development does not meet the opportunities listed on Page 45 of the plan, notably: *'Retain and enhance existing vegetation'* and *'Respect and conserve heritage items'*. Refer to discussion later in this attachment.

Additionally, the proposal does not meet the design opportunity as identified on Page 36 of the Precinct Planning report. The design opportunity: *'respect topography and ensure clear and legible links between ridgetops and creek lines'*. It is considered that the levelling of the site and the extent of the proposed fill which appears to be up to 10m in some locations, does not respect the topography of the site.

#### *Application assessed against the Western Sydney Aerotropolis Draft Urban Design and Landscape Plan report*

This report comprises the urban design, public realm and landscape recommendations informing the draft precinct plan for the Aerotropolis initial precincts.

The report notes the following in relation to the subject site:

- Heritage considerations - this identifies that Exeter Farm which used to be on this site warrants heritage consideration;
- A street typologies plan - noting that several Local Street Industrial / and with cycle paths (25m wide) will cut through this site;
- Building and FSR framework – depicting a maximum height for the Badgerys Creek precinct for enterprise uses of 24m above ground level; and
- Advises how future development must interface with and address Elizabeth Drive.

#### **Visual Impact and Interface issues**

Filling appears to be wholly contained within the Badgerys Creek Precinct portion of the site. The footprint of the proposed fill, particularly in height and mass is substantial and considered excessive. It is noted the revised plans have increased setbacks to the proposed fill from the Elizabeth Drive frontage by some 30m, and for the Wianamatta South Creek corridor by some 50m.

Elizabeth Drive will be a key entry boulevard traversing the Aerotropolis and is a potential road link into Western Sydney Airport. While setbacks have been increased in the revised plans, the Partnership is still concerned regarding the detrimental visual impact the excessive amount of fill will have to the streetscape, adjacent properties, and from the Wianamatta-South Creek corridor.

Furthermore, the WSAP notes the Wianamatta-South Creek zoned part of the site (eastern part) is to be established as a corridor providing for the blue and green infrastructure spine of the Aerotropolis and the Western Parkland City.

#### **Removal of vegetation**

The proposed development is supported by a Biodiversity Development Assessment Report. A comprehensive assessment by the Partnership on this component has not been completed. However, it is noted the development will remove 1.63 ha of Cumberland Plain Woodland and 0.69ha of Castlereagh Ironbark Forest both in a degraded condition. The Partnership is extremely concerned with the extent of clearing proposed and strongly encourages the Proponent to retain as much vegetation as possible on the site.

Based on the above, the Partnership encourages for the vision of the Aerotropolis as provided in the Planning Package, which advocates a landscape led approach to design as well as retaining a green, biodiverse landscape be adhered to.

#### **Aboriginal Heritage**

The Aboriginal Archaeological Survey Report by Artefact (November 2019) identified four (4) Aboriginal sites within the study area and three areas of archaeological potential. The Partnership is concerned that the proposal will impact these sites and further work is necessary to ascertain the level of impact. The recommendations of the Aboriginal Archaeological Survey Report must be adhered to, and these should be carried out prior to a determination being made on the proposed development. The Partnership suggest this could also be conditioned as part of a deferred commencement consent or similar.

It is important that further archaeological test excavations be carried out to confirm the presence and geographic extent of subsurface Aboriginal objects and assess their significance. In addition, detailed design should avoid or minimise impacts on known Aboriginal sites and areas of PAD.

In support of the draft precinct planning package, a recent heritage assessment undertaken by Extent Heritage (2020) for the Partnership has identified part of the subject site as containing areas of high and moderate Aboriginal heritage sensitivity. This is consistent with the Aboriginal Archaeological Survey Report by Artefact and must also be taken into consideration.

The Partnership encourages further consultation with Aboriginal stakeholders in accordance with the 'Aboriginal cultural heritage consultation requirements for proponents' (DECCW 2010). It is recommended that the applicant consult with relevant key stakeholders and that this consultation informs the approach and final design of the waste management facility, should it be supported by Council.

Furthermore, the EIS indicates the total loss of Aboriginal Heritage Items. As part of this process, an Aboriginal Heritage Impact Permit (AHIP) will be applied for. The Aerotropolis is being planned with a strong Connecting with Country in mind and all processes to mitigate loss of heritage should be met.

### **Non-Aboriginal Heritage**

The Partnership is concerned about the proposed impact on non-Aboriginal archaeological items of heritage significance which may be located within the site. These items may include archaeological remains associated with:

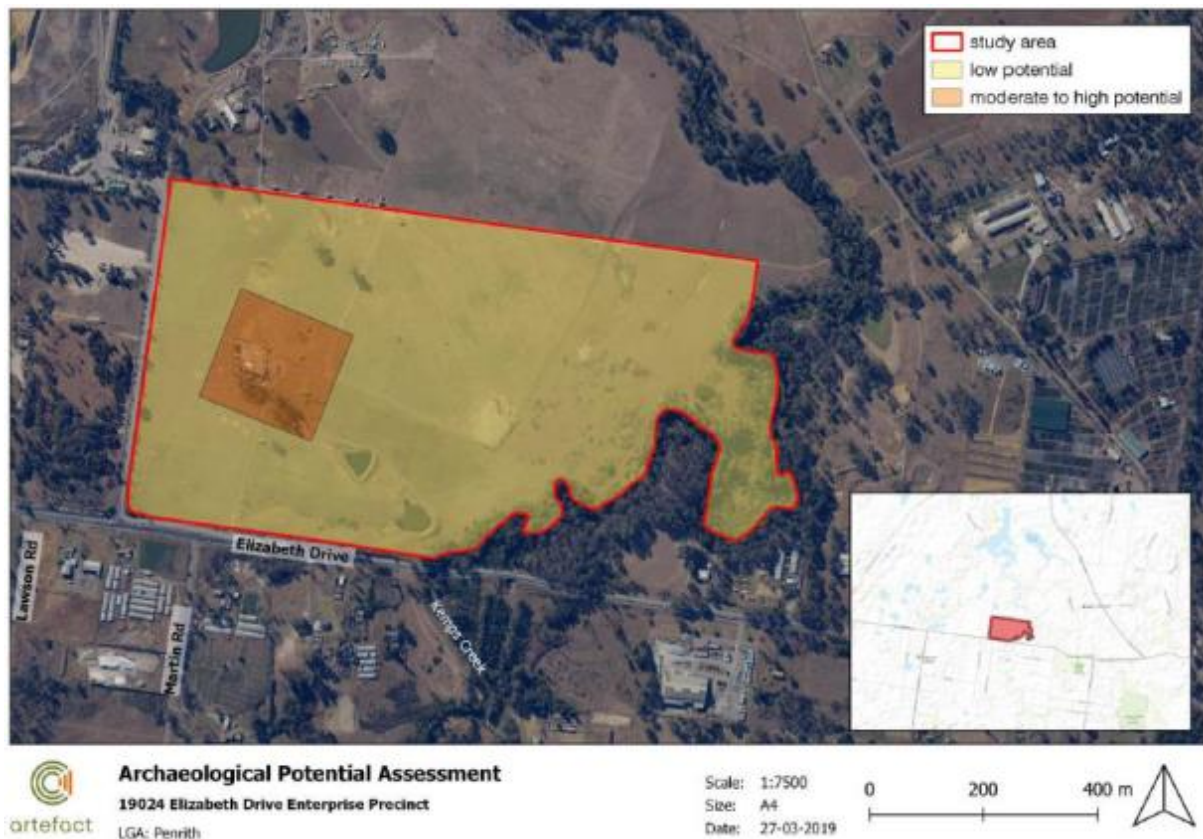
- Badgery's farmhouse (Exeter Farm);
- Convict quarters;
- At least two huts for farm assistants, including the overseer and the blacksmith;
- At least one barn; and
- Other structures and features associated with a farm complex dating to the early 19th century, including cesspits, privy, rubbish deposits, and other yet unidentified structures such as for butchering and blacksmith's workshop.

Furthermore, the subject site contains archaeological remains associated with Exeter Farm and buildings, located towards the western boundary of the site (see below figure from EIS below). The report by Extent Heritage (2020) note the archaeological remains associated with Exeter Farm have the potential to be State-significant, despite the disturbance of the site. The Extent report has also recommended the site be considered for a heritage listing. Whilst the site has been subject to recent modifications, some plantings and fence lines as well as the site of Exeter House may survive. Furthermore, additional research and assessment is encouraged to be undertaken on this site in order to determine the extent and significance of the archaeological resource, including the appropriate conservation recommendations.

If the archaeological remains associated with Exeter House are indeed State-significant, then the disturbance or removal of State significant relics would not be permissible. Any

development impacts in these areas will require specific management under the current legislative controls including avoidance of impacts, appropriate conservation and retention in situ. The Partnership suggests that a detailed assessment would be required before the proposed development can be determined.

Based on the above, it is strongly recommended that the application be referred to Heritage NSW for comment given the potential for State-significant archaeological remains.



**Figure 2: Archaeological Potential Assessment**

### **Insufficient detail**

As the DA contains very few details of the proposed future development, it is premature to determine whether the eventual development will be consistent with the vision for Badgerys Creek Precinct Plan.

Based on the concerns note in this letter, the Partnership is of the view that Council should request further information from the Proponent.