



Office of
Environment
& Heritage

DOC17/282025

NSW Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

North West Priority Growth Area - Land Use and Infrastructure Implementation Plan

I refer to your email dated 16 May 2017 seeking feedback from the Office of Environment and Heritage (OEH) on the Land Use and Infrastructure Implementation Plan (Implementation Plan) and related documents for the North West Priority Growth Area. OEH apologises for the delay in providing its response.

OEH has reviewed the Implementation Plan and related documentation and provides comments in relation to biodiversity, Aboriginal cultural heritage and floodplain risk management at Attachment 1.

If you have any queries about this matter, please contact Marnie Stewart on 9995 6868 or marnie.stewart@environment.nsw.gov.au.

Yours sincerely

S. Harrison 20/07/17

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney

ATTACHMENT 1 – Office of Environment and Heritage comments on North West Priority Growth Area Land Use and Infrastructure Implementation Plan

1. Background

The Office of Environment and Heritage (OEH) understands that the Land Use and Infrastructure Implementation Plan (Implementation Plan) outlines plans for the growing North West Priority Growth Area (NWPG Area) and the infrastructure required to support growth. It will replace the current structure plan and responds to the draft West Central District Plan and draft West District Plan. OEH notes that the NW Priority Growth Area is forecast to contribute approximately 12 percent of the homes needed in Sydney over the next 20 years. OEH further notes that an additional 20,000 dwellings need to be accommodated in the NWPG Area than originally anticipated.

OEH has reviewed the Land Use and Infrastructure Implementation Plan and supporting studies covering regional flooding and riparian assessment, European and Aboriginal heritage, salinity, a housing market needs assessment, and transport and infrastructure planning.

2. Biodiversity and the Green Grid

OEH notes that there is no specific action relating to biodiversity conservation. OEH recommends that the Implementation Plan include an action that the planning for the NWPG Area meets the conditions of the Biodiversity Certification Order. OEH notes that the Implementation Plan identifies that land to “protect high conservation bushland” has been purchased using \$18 million funded by the SIC (p20). It would be useful to explain whether the land purchased is within the Priority Growth Areas, and whether this land is part of the regional public open space identified under the Biodiversity Certification Order and an offset for the loss of existing native vegetation elsewhere in the Growth Centres.

OEH further notes that the Implementation Plan identifies a need to resolve the funding for acquisition and embellishment of regional green corridors, and that changes to the State Infrastructure Contribution (SIC) are being explored to fund the Green Grid. OEH is also supportive of Action 8 which will ensure implementation of the Green Grid. Figure 14 (pp30-31) identifies Non-urban land within the remaining precincts within which development be limited by constraints such as “the 1:100 year flood extent, riparian corridors, vegetated areas and areas of high Aboriginal cultural heritage significance” (page 29). Figure 14 also shows vegetation “protected by Biodiversity Certification to offset the clearing of land for urban development” (p29). OEH considers that these areas should be prioritised for incorporation into the Green Grid.

OEH is supportive of the proposed maximum dwelling density targets, in that development in low density zones which far exceeds the minimum density requirements may result in poor sustainability and liveability outcomes, particularly given the impacts of urban heat expected in the near future. OEH supports development densities and associated subdivision and dwelling design controls which enable sufficient landscaped area to be provided on individual lots, as well as throughout the development, to encourage tree planting for shade and amenity.

3. Floodplain risk management

OEH notes that Cardno (July 2015) has prepared a Water Management, Flood Modelling and Riparian Corridor Study for Shanes Park and West Schofields Precincts which have not yet been rezoned. OEH has reviewed the Cardno report and notes that it is proposed to utilise Blacktown City Council's existing flood studies as the base for future modelling of the new precincts, which is reasonable and supported. OEH also supports the framework for future modelling as outlined in Section 3.7 of the report. However, it is prudent that, prior to proceeding to the next stage, the proponent adequately considers in a regional context emergency management aspects and evacuation constraints as follows:

- One of the key aspects in planning and rezoning of the North West Priority Growth Precincts is the large scale evacuation that will be required as part of the Hawkesbury-Nepean Valley regional evacuation. Potential communities of proposed precincts would have to evacuate for

all flood events larger than and including the 1% AEP flood. OEH is not satisfied that emergency management issues and flood evacuation constraints have been adequately addressed at this stage. The 'Land Use and Infrastructure Implementation Plan- North West Priority Growth Area' and 'Cardno's Flood Assessment' indicate that further assessment will be prepared to enable appropriate emergency response plan for the proposed precincts. OEH does not support the deferment of the evacuation assessment to a future unspecified time as proposed. OEH also highlights it is prudent to prepare a detailed assessment on cumulative impacts of new precincts on current and future evacuation capacity of the HNV to assist and guide decision-making at the current rezoning phase.

- Cardno report Section 3.5 states *'It would be expected that evacuation would be the primary emergency response, although some form of shelter in place / vertical evacuation may also need to be provided if the emergency assessment finds that a safe and orderly evacuation is not feasible for the entirety of the precinct'*.

OEH disagrees with the above statement. 'Sheltering in place' is not an appropriate flood evacuation strategy for the proposed precincts. It is not supported and should not be considered in the NWGC due to the extreme characteristic of flooding and the exceptional flood risk to people and properties within the HNV. If the emergency assessment finds that a safe and orderly evacuation is not feasible for the entirety of the precinct the developable area should be altered to ensure safe evacuation. If this is not achievable the rezoning should not proceed.

It should be noted that, the Hawkesbury Nepean Flood Management Directorate's letter to DPE regarding the West Schofields Precinct dated 12 November 2016 highlighted that 'precinct release in this area should be based on sufficient evacuation routes being identified to allow for the timely evacuation of the precinct and ensure no net negative effect on the regional evacuation capacity'.

4. Aboriginal cultural heritage

OEH has reviewed the *North West Priority Growth Area Land Use and Implementation Plan*, prepared by the Department of Planning and Environment (DPE), dated May 2017 (DPE 2017) and the *Shanes Park and West Schofields Precincts: North West Growth Centre Aboriginal and Historic Heritage Report: Gap Analysis and Future Direction*, prepared by Archaeological & Heritage Management Solutions (AHMS), dated 2 June 2015 (AHMS 2015). These reports are referred to as the 'Implementation Plan' and the 'Gap Analysis' respectively in the following comments made by OEH.

OEH considers the Gap Analysis to be a very preliminary report that contains insufficient detail to enable OEH to identify and comment on specific areas within the Shanes Park and West Schofields precincts that require conservation and/or further investigation of Aboriginal cultural heritage values. As outlined by AHMS (2015, p11) the Gap Analysis is subject to major limitations. The Gap Analysis is based on existing and publicly available information and reports and no independent verification of the results and interpretations of the reports was undertaken. AHMS (2015, p52) also notes that the review was "...necessarily brief due to project timeframes." In addition, the process and results of Aboriginal stakeholder consultation have not been included and the outcomes of the preliminary cultural mapping are still pending. AHMS (2015, p11) states that, as a consequence, "...the current document may present an under-representation of cultural sites and/or values associated with the Shanes Park and West Schofields precincts."

Underlying this is the issue highlighted by AHMS (2015, pp7-8) that previous Aboriginal heritage assessments within the Shanes Park and West Schofields precincts have been limited. Most of the Shanes Park precinct and the northern part of the West Schofields precinct have not been subject to any Aboriginal heritage investigation. As determined by AHMS, parts of these areas are considered likely or very likely to contain highly significant Aboriginal sites. OEH concurs with the finding that more detailed investigation of both precincts is essential prior to any form of development planning AHMS (2015, p7).

The Implementation Plan singles out two areas of key importance to be considered in detail during precinct planning. These comprise a potential pre-contact Aboriginal cemetery (burial ground) and Plumpton Ridge (DEP 2017, p27). OEH agrees with the recommendations made by AHMS (2015, p50) that identification of the burial ground and characterisation of the quarry site of Plumpton Ridge are required. These investigations should be completed prior to any precinct planning taking place to inform management strategies for both sites, which may include conservation, dependent on the assessed cultural and scientific significance. OEH wishes to highlight here that the cemetery may require management under both the *National Parks and Wildlife Act 1974* (NPW Act) and the *Heritage Act 1977*.

OEH stresses that it is important not to restrict further investigation and research to the potential cemetery and Plumpton Ridge only. The Gap Analysis has identified that limited Aboriginal heritage investigation has been undertaken in the Shanes Park and West Schofields precincts to date and that many of the reports do not conform to current guidelines. There may be other sites of significance within both precincts that are presently unknown and that may form constraints to development. OEH therefore considers it essential that both precincts are subject to full Aboriginal cultural and archaeological investigation, including full consultation with the Aboriginal community and considering the outcomes of the cultural mapping, prior to the commencement of precinct planning. OEH notes with concern, however, that planning of the West Schofields precinct appears to have already commenced prior to these investigations being undertaken.

In regards to the key issues with the existing Aboriginal Heritage Impact Permit (AHIP) process that are outlined by AHMS (2015, p51), OEH wishes to present some clarifications and corrections. Firstly, the information required by OEH to determine the extent of potential impacts to Aboriginal heritage are well known and clearly stated, so there should be no uncertainty around this (see, for example, the OEH guidelines: *Applying for an Aboriginal Heritage Impact Permit Guide for Applicants* and *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW*).

Secondly, the statement that section 90R of the NPW Act refers to some AHIPs running with the land is incorrect. Section 90R of the NPW Act identifies certain AHIP conditions to run with the land, specifically:

If an Aboriginal heritage impact permit relates to a specified parcel of land and an application is made under section 90B to transfer the permit to another person, the Chief Executive:

- (a) must not refuse the application, and*
- (b) In granting the application, must not vary any of the conditions of the permit.*

(END OF SUBMISSION)