



3 December 2021

Reference File: F00678 (21/295127)

Minister for Planning and Public Spaces / Independent Planning Commission
Via online submission

Dear Minister,

**Subject: Submission to Development Application
Helipad Penrith Lakes – DA21/15298: 100 Old Castlereagh Road,
Castlereagh, 2749**

1. Environmental Impact Statement

Description and Classification of Use

The EIS prepared by URBIS articulates in the 'Project History', 'Proposed Development' and 'Project Purpose' sections of the document that:

- Sydney Helicopters as a commercial helicopter operator wish to relocate to the subject site and provide chartered flights, tours and emergency services
- This application is seeking approval for use as a 'helipad', as this accommodates "most aspects of the Sydney Helicopters operation and approval enables the re-establishment of the business operation", while they continue to pursue an amendment to the Penrith Lakes SEPP for inclusion of the heliport land use.

The EIS in the 'Project Alternatives' section of the report then goes on to confirm that the 'do nothing approach' would mean the applicant would forgo a number of opportunities including continuing " *to shape and develop the PLS as a major recreational facility for the population of Western Sydney by proposing a land use and development type that will ultimately encourage additional tourism opportunities to the area and provide local residents with additional recreational activities associated with the use of a Helipad. This is inclusive of acting as an additional transport mode to support traffic via chartered flights to the Blue Mountains, and destinations further afield in the Hunter Region, Mudgee, and Bathurst.*"

These descriptions of proposed use, the justification against key pieces of legislation, and statements that the proponent is seeking an amendment to the Penrith Lakes

SEPP to include *heliport* as a permitted use, all point towards this being the correct classification of the proposed development – i.e: a *heliport* not a *helipad*.

The inclusion of a legal opinion at Appendix P of the EIS suggests that the key point of distinction between these uses is whether or not the facility is open to the public or rather, whether the public is invited to enter or can in response to an open invitation to the public at large. The advice also includes two key examples of the type of operation (at points 26 and 27 of that advice), that would constitute a *heliport* use. Despite assertions in the application to the contrary, these descriptions provided at points 26 and 27 of the advice, are in fact those which is detailed in the application.

Therefore it is clear that the use which most appropriately characterises the subject proposal is *heliport* not *helipad*. As this use is not permitted, the application cannot be approved.

Environmental Impact

The submitted EIS provides details on consultation undertaken with various stakeholder groups surrounding the take-off / landing area, and references assessment of various potential environmental impacts, including noise, vibration, air quality, visual impact etc.

The EIS also includes a response on the Secretary's Environmental Assessment Requirements (SEARs) which confirms against the Airspace consideration, that an assessment of and to airspace has been included.

However, the document does not provide any information on proposed flight paths from the subject site, the routes that tours and scenic flights will take, and it does not consider any environmental impacts on the surrounding areas over which these flights will proceed. This is not an acceptable assessment of the potential impacts of the proposal.

One of the nominated locations in the documentation for scenic flights is the Blue Mountains, yet potential impacts on the World Heritage listed National Park and on the residents of the Blue Mountains Local Government Area have not been considered. Further, there is minimal to no reference of the World Heritage listed area in any of the submitted material, beyond it being adjacent to the subject site.

This does not represent a thorough and transparent assessment of the receiving environment and zone of impact for this proposal. It cannot be argued that the limit of impact for a development such as this is confined to the take-off and landing site, and the application openly discusses that the business model relies on a broader landscape and iconic destinations for scenic tours.

To present an EIS which does not include any assessment or consideration of these areas and the potential impact on the natural environment, its cultural values and its residents must be reviewed and amended to include such an assessment. It is recommended that this include consultation with Blue Mountains City Council, the Blue Mountains community and Traditional Owners as detailed below.

2. Aboriginal Cultural Heritage

The application includes a request to waive the requirement of the SEARs for an Aboriginal Cultural Heritage Assessment Report, on the basis that the proposed physical works at the subject site have now been reduced.

To view the potential extent of impact as confined to the take-off and landing site does not appropriately respond to legislative requirements, and is not an acceptable response to the sensitivity and significance of the surrounding World Heritage Area and traditional lands of the Gundungurra and Dharug peoples.

The application openly acknowledges that scenic flights would be proposed over the Blue Mountains. Iconic locations in this landscape include the Three Sisters and Jamison Valley, both of which are highly significant to the Gundungurra people and gazette as a declared Aboriginal Place.

However, there is no information on flight paths to confirm the route of these scenic flights beyond confirming these will be over the Blue Mountains. Therefore, there appears to have been no consideration or assessment of the potential adverse impact on the World Heritage Area and the cultural significance to Traditional Owners.

The waiver request should not be accepted, and the applicant should be required to consult with Aboriginal people on this proposal, including and most importantly, on the potential adverse impacts to places and sites of Aboriginal Cultural Significance with the Blue Mountains World Heritage National Park.

3. Noise Impact Assessment

The Noise Impact Assessment undertaken by Acoustic Logic, states that it has undertaken an assessment of the proposed location and operation of the helipad. However, the report does not include any consideration of flight paths and does not consider noise impacts on any areas beyond the take-off and landing zones.

Section 2 of the report confirms that the proposal includes 25 flights per day, and approximately 5 night flights. The majority of the report refers to detailed noise considerations against the EPA Noise Control Manual, and references two flight paths into the Penrith Lakes site, nominating a 1200m radius of impact from noise. The report also recommends that no flights are undertaken between 7-10pm due to the likely and unacceptable noise impacts; yet the proposal nominates flights between 5:30am and 10pm.

In the absence of any information on the flight paths for these journeys, the noise assessment cannot be considered as acceptable. The submitted assessment does not consider the noise and amenity impact of the flight itself, or the potential adverse impacts on the World Heritage listed National Park. The likelihood of adverse impact on the World Heritage Area and on those intending to experience its wilderness setting is considerable. Beyond this, there is significant potential for adverse noise impacts on the residents of the Blue Mountains LGA. This must be considered to be part of the locality of the development and both the broader environment and Blue Mountains residents, considered sensitive receivers.

Conclusion

As presented in the development application, Sydney Helicopters is looking for a new location for their business. It appears that as a result of a delay in legislative processes around the Penrith Lakes SEPP, there is an attempt to re-characterise the proposed use as a *helipad*, rather than a *heliport* – the very use for which the amendment to the SEPP is being sought. It is argued that the proposed operation of use as detailed in the application is most appropriately characterised as a *heliport*, and therefore cannot be approved as it is not a permitted use.

Beyond this problem of characterisation, the assessment contained within the Environmental Impact Assessment and other supporting documents does not consider the potential for any environmental impacts beyond the site, despite the fact that the very nature of the proposal will inevitably result in such impacts.

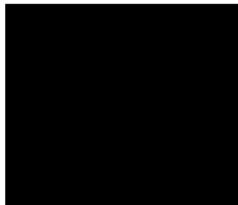
The World Heritage listed Greater Blue Mountains National Park and the cultural significance of the sites and places within this landscape have not been considered. There is no reference to potential adverse impacts on this landscape, its values or biodiversity. Traditional Owners and other Aboriginal People have not been consulted and there is also no reference to the potential impact on the residents of the Blue Mountains.

For the reasons outlined in this submission, we argue that the application does not currently have a permissibility pathway and cannot be supported. Notwithstanding this impediment, the assessment of environmental impacts is deficient in that it does not reference, consider or evaluate any of the potential impacts on the Blue Mountains, including the World Heritage listed National Park, the cultural heritage values and significance of this place to Traditional Owners and other Aboriginal people. The application must consider this broader environment as central to the assessment of environmental impact.

As a local government area with substantial investment in this proposal and with the potential to be adversely impacted, we would request the opportunity to be consulted directly.

Please contact me on [REDACTED] to discuss these implications further. We look forward to hearing from you.

Yours Sincerely,



WILL LANGEVAD
Director – Environment and Planning Services