

PROCESS FOR WSA Co & WSA Co CONTRACTOR REQUESTS FOR ACCESS TO THE WESTERN SYDNEY AIRPORT SITE

Until the Airport lease is granted by the Commonwealth, WSA Co must obtain the Commonwealth's approval before it or its contractors can access the Airport Site. WSA Co may obtain the Commonwealth's approval by submitting a Site access request to the Department for consideration. The Department's Department within the Western Sydney Unit will consider the access request on behalf of the Commonwealth.

WSA Co may submit Site access requests to the Department for itself or its contractors. WSA Co Contractors may also submit Site access requests to the Department directly, but only with WSA Co's consent. Site access requests from WSA Co contractors will only be considered if the contractor provides confirmation of WSA Co's consent with their request.

Site access requests must be submitted to the Department at least 10 business days before access is required. Site access requests submitted with less than 10 business days' notice prior to access will only be considered at the Department's discretion.

The Department will make reasonable endeavours to consider the request promptly.

All Site access requests must be submitted in accordance with the process and include the information described below:

1. Site access requests must be submitted by email to the Department via Land Use and Planning team, Western Sydney Unit.
2. Site access requests must contain at a minimum the following information:
 - a. Name of the entity requesting access and contact details of the entity's representative;
 - b. Parts of the Site to be accessed (i.e. properties based on address or title details);
 - c. Purpose for accessing the Site, including details of the proposed activities to be undertaken on the site (i.e. investigations or testing);
 - d. Times during which access is required, including the dates and duration of access (i.e. hours/days/weeks).
 - e. Number of personnel who will be onsite;
 - f. Machinery/vehicles that will be used onsite;
 - g. Any information about work health and safety arrangements; and
 - h. Any other information the entity considers relevant to its access request.
3. After receiving the request the Department will consider if the requested access:
 - a. is reasonably required for a permitted purpose under the Project Deed;
 - b. is inconsistent with any law;
 - c. materially impacts on any activities of the Commonwealth or others on the Site; and
 - d. requires the agreement of a person other than the Commonwealth, where this person occupies part of Site to which access is required.

The Department may provide advice on site sensitivities and assist the requesting entity about any refinements to its Site access request (if required).

4. Within 5 business days after receiving a Site access request, the Department will notify the entity whether the request has been either:
 - a. Approved with or without conditions (including but not limited to conditions about insurance arrangements required to be in place to access the Site and the areas of the Site that may be accessed); or
 - b. Rejected and, if so, the reasons for rejecting the request.

If a Site access request is approved, the Department may specify what notifications need to be undertaken before accessing the Site and what sensitivities may need to be considered when onsite. WSA Co must action any notifications and make any relevant arrangements if requested to do so.

If a Site access request is approved, access will only be provided in accordance with the request unless otherwise agreed with the Department. WSA Co must make sure that any person (including employees, contractors, representatives and volunteers) accessing the Site under an approved Site access request, comply with:

- all applicable laws;
- all relevant Site access and work, health and safety procedures; and
- all relevant directions or protocols (including the Site Access Protocols – see **Attachment A**).

ATTACHMENT A – WESTERN SYDNEY AIRPORT SITE ACCESS PROTOCOLS

The following site access protocols (Protocols) apply to organisations and their personnel (including employees, contractors, representatives and volunteers) when accessing the Commonwealth-owned land at Badgerys Creek (the Site).

These Protocols must be followed to ensure that the Commonwealth's Site management, safety and environmental obligations continue to be met. These access arrangements apply until an Airport lease is granted by the Commonwealth.

Site Management Access Arrangements

Organisations are responsible for their personnel when they are accessing the Site. While their personnel are onsite, organisations must ensure their personnel:

- notify the Site Manager each time when entering and leaving the Site;
- only access the parts of the Site authorised under their Site access request;
- travel in groups of not less than 2 people for safety and security reasons;
- avoid unnecessarily disturbing current or former occupants or interfering with public's use of the Site where applicable when undertaking access;
- avoid any actions that may damage any fences, posts, pickets, survey pegs or other markings in place on the site;
- avoid any actions which may pose a fire risk and be vigilant for any source of ignition (please check when leaving the site) and comply with all relevant requirements under the Bushfire Management Plan; (*copy to be provided on contract award*)
- inform the Site Manager immediately if any unauthorised activities are encountered onsite or if damage occurs or is observed to features onsite;
- comply with all applicable work health and safety requirements and procedures, including notifying the Department as soon as practicable if any issues arises; and
- act in accordance with any other protocols or directions set out by the Department or Site Manager.

Organisations must notify the Department and the Site Manager if a site management issue arises as a result of their personnel's access to the Site. If a site management issue affects an organisation's access or their personnel's ability to continue their activities on Site, the Department will advise how to resolve the issue.

The Department may amend any applicable conditions of access and or issue further directions regarding an organisation's access if necessary to manage site management issues. The Department may revoke or suspend an organisation's access to the Site, if the organisation or their personnel fail to comply with any conditions of access, the Protocols or any other relevant directions.

Environmental & Heritage Management Access Arrangements

In order to ensure onsite activities do not breach any obligations the Commonwealth has under the *Environment Protection and Biodiversity Conservation Act 1999*, organisations and their personnel should generally avoid damaging any environmental or heritage features on the Site. Specifically, organisations need to ensure their personnel comply with the following whilst onsite:

- Interim protocol on Discovery of Aboriginal Cultural and Heritage Objects – September 2017;
- Interim protocol on Discovery of European Heritage Items and Human Remains – September 2017;
- Personnel should be aware of the biodiversity exclusion zones on the Site and any other areas subject to biodiversity values. Personnel should observe the onsite mitigation measures that are in place for these areas. This includes the marking and delineation of exclusion zones, which minimise the impacts to biodiversity (including the Cumberland Plain Woodland ecological community and other threatened flora species) during the course of onsite works; and
- Personnel should minimise the potential impacts associated with parking of heavy machinery onsite (including on road verges) and siting of construction facilities. Vehicles and equipment must be positioned within the designated boundary of the site. Vehicles must not obstruct vehicular or pedestrian traffic on roadways and footpaths, or access to private driveways and public facilities unless absolutely necessary. Nearby residents, businesses and other stakeholders may be required to be notified if there is to be an impact to them.

Western Sydney Airport

Interim Protocol on the Discovery of Aboriginal Cultural Heritage Objects and Human Remains

12 September 2017

Background

Airport Plan Condition 11(1) (b) requires the Site Occupier not to carry out any Preparatory Activities inconsistently with Table 28-13 in Chapter 28 of the *Western Sydney Airport: Environmental Impact Statement*¹ (EIS). The term 'Preparatory Activities' is defined in the Airport Plan to include, among other things, day-to-day site and property management activities, site investigations, establishing construction work sites and enabling activities such as the demolition or relocation of existing structures.

One of the requirements in Table 28-13 in Chapter 28 of the EIS is that protocols 'be developed and implemented for the unanticipated discovery of Aboriginal objects, and for the discovery of any suspected human remains for all Main Construction Works involving ground disturbance'.² The timing requirement for these protocols is 'Pre-construction' and 'Construction'. 'Pre-construction' means before the commencement of Main Construction Works.

The following interim protocol addresses this requirement for the period before an Airport Lease is granted (during which the Commonwealth is the 'Site Occupier' for the purposes of the Airport Plan Conditions) and prior to the approval of the Aboriginal heritage survey and salvage plan. The Department of Infrastructure and Regional Development (represented by the Western Sydney Unit (WSU)) is responsible for carrying out relevant actions on behalf of the Commonwealth.

Once an Airport Lease is granted to WSA Co, the Commonwealth will no longer be the 'Site Occupier' for the purposes of the Airport Plan Conditions. Instead, WSA Co will be the Site Occupier and WSA Co will then need to determine how it will comply with Airport Plan Condition 11(1) (b) and the requirements in Table 28-13 in Chapter 28 of the EIS.

It is noted that, once an Airport Lease is granted, Regulation 4.05 of the *Airports (Environment Protection) Regulations 1997* will also apply in relation to Western Sydney Airport (unless sooner amended). Regulation 4.05 imposes a duty on each operator of an undertaking at an airport to give notice of the discovery of cultural objects of previously unrecognised significance to the Airport Lessee Company and the airport environment officer for the airport. The Airport Lessee Company or airport environment officer is then required to seek expert advice on any appropriate conservation measures, consult with the operator about reasonable means of giving effect to such measures and record the discovery in the environmental site register for the airport. However, Regulation 4.05 does not apply at Western Sydney Airport during the pre-lease period.

This interim protocol has been adapted from information in EIS Volume 4, Appendix M1, Appendix 8. The protocol is part of a wider mitigation program to address unintended risk to cultural heritage. A related aspect is pre-construction induction training for Aboriginal cultural heritage values for contracted site workers and employees on the site and where appropriate, training for artefact

¹ Department of Infrastructure and Regional Development, 2016

² EIS Volume 2b Stage 1 development, Table 28-13, page 38, Protocols for discovery of artefacts and human remains.

identification and management of heritage values for specific workers on the site. Induction training should also address what to do in the event of finding human remains.

Protocol

In the event that, during the period before an Airport Lease is granted and the Aboriginal heritage survey and salvage plan is approved, an object (or objects) is discovered on the Western Sydney Airport site which is suspected to be an Aboriginal object or human remains, the following procedure is to be followed:

- 1) Preparatory Activities which involve excavation or ground disturbance activities must cease immediately in the immediate area to prevent any further impacts to the object(s).
- 2) The person making the discovery must notify the onsite manager immediately.
- 3) The onsite manager will:
 - a) Record the location and nature of the object(s) and notify WSU;
 - b) Ensure the object(s) is retained in situ;
 - c) Safeguard the immediate area from further disturbance by demarcating it as a 'no go area' and using signage, temporary marking and fencing;
 - d) Assess whether or not Preparatory Activities can continue in the surrounding area with safeguards in place; and
 - e) Advise and consult WSU on whether or not Preparatory Activities in the surrounding area can proceed safely and without disturbance to the object(s) or as yet still obscured but associated object(s), and under what conditions (e.g. adequate fencing to safeguard the object(s)) and ensure site safety is managed (e.g. any excavations are safe and appropriate personal protective equipment is used).
- 4) WSU will:
 - a) Be responsible for notifying the NSW Police immediately in the event that the object(s) obviously, or are determined to, comprise/include human remains. All related directions from the Police or the Coroner take priority over those defined in this procedure ;
 - b) Consider and decide on the feasibility and safety of any Preparatory Activities in the immediate area continuing or not while the object(s) is verified and recorded, including whether any excavation remains open (backfilling of an excavation may be necessary for safety reasons);
 - c) Consider and decide on whether or not Preparatory Activities and any related work can proceed in the immediate and surrounding area, if and as necessary after consultation with:
 - i) a qualified archaeologist who would advise if:
 - (1) the object(s) is of Aboriginal origin and its likely significance in relation to the nature, extent and frequency of the object(s) recorded through Aboriginal Cultural Heritage survey work undertaken across the Western Sydney Airport site³, and
 - (2) there is substantial potential that associated but as yet obscured object(s) remain undetected within the immediate and/or surrounding area;

³ The archaeologist should provide scientific significance, based on criteria and characterisation that should provide evidence that answers the question as to whether the area has been used by Aboriginal people, that the previously unidentified objects are man-made and the archaeological term for those objects.

- ii) the Department of the Environment and Energy if appropriate e.g. if the find is of major Aboriginal Cultural Heritage significance;
 - iii) the NSW Office of the Environment and Heritage if appropriate e.g. if the find is of major cultural heritage significance.
- d) Assess and make a decision on the action to be taken in relation to the object(s) taking into account:
- i) Any advice, if sought, from a qualified archaeologist;
 - ii) The nature and duration of the Preparatory Activities being undertaken in the area and the likely level of further disturbance in the immediate and surrounding area;
 - iii) Whether there is any Preparatory Activity being undertaken or proposed by the Site Occupier that would require a plan to be approved for Aboriginal artefact survey and salvage as required under Airport Plan condition 5; and
 - iv) the circumstances and related actions under points 5 and 6.
- 5) Circumstances and related actions to be taken:
- a) Isolated incidental disturbance (picking up an object and putting it back) and observation of naturally disturbed objects (through erosion) are to be recorded but may not require any further action as long as the object remains in situ. The nature of the object and similar finds should be considered, if necessary, assessing the object for significance and further action. The object should be photographed, described and recorded with its GPS location for future reference in any Aboriginal artefact survey and salvage to be undertaken under an approved Plan relating to Preparatory Activities in that part of the Airport site , or under an approved Aboriginal Cultural Heritage CEMP addressing that part of the Airport site; or
 - b) For Preparatory Activities that involve site scraping, vegetation clearance, or excavation, or other major disturbance and where several object(s) are found, assessment and recording by a qualified archaeologist is appropriate to determine if the object(s) is of Aboriginal origin and to determine the nature, extent and significance of the find. The archaeologist will advise on the extent of temporary fencing of the area to reduce risk of disturbance. Preparatory Activities will be able to resume in the vicinity of the fenced area only when risk of further disturbance is mitigated.
- 6) If the object(s) is determined to be of Aboriginal origin by a qualified archaeologist, proposed management options could include:
- a) Leaving the nominated find(s) in situ;
 - b) Nominating the object(s) for salvage and temporary storage in a secure place onsite or offsite pending resolution of where nominated salvaged Aboriginal Cultural Heritage objects could be kept in the medium and longer term;
 - c) Inviting EIS registered local Aboriginal parties to advise on the object(s) in their on-site context⁴;
 - d) Nominating the object(s) for onsite reburial in an appropriate site e.g. in the proposed Environmental Conservation Zone.
- 7) Access to object(s) onsite or stored offsite will be limited to people with a need to manage the artefacts and to local Aboriginal groups/individuals with a demonstrated interest. All access

⁴ The local Aboriginal party involved may identify cultural significance in relation to the object, as it is their unique cultural perspective that attributes cultural significance.

must be authorised by WSU and accompanied site visits arranged through the Site Manager during reasonable hours.

- 8) All discoveries and the actions taken, including the involvement of local Aboriginal parties, will be recorded in a manner consistent with the recording of objects during the EIS.

Western Sydney Airport

Interim Protocol on the Discovery of European Heritage Items and Human Remains

12 September 2017

Background

Airport Plan Condition 12(1) (b) requires the Site Occupier not to carry out any Preparatory Activities inconsistently with Table 28-15 in Chapter 28 of the *Western Sydney Airport: Environmental Impact Statement*¹ (EIS). The term 'Preparatory Activities' is defined in the Airport Plan to include, among other things, day-to-day site and property management activities, site investigations, establishing construction work sites and enabling activities such as the demolition or relocation of existing structures.

The requirements in Table 28-15 in Chapter 28 of the EIS include that procedures 'be developed and followed' for the unexpected discovery of European heritage items, and for the discovery of any suspected human remains during construction.² The timing requirement for these procedures is 'Pre-construction' which means before the commencement of Main Construction Works.

The following interim protocol addresses this requirement for the period before an Airport Lease is granted (during which the Commonwealth is the 'Site Occupier' for the purposes of the Airport Plan Conditions) and prior to the approval of the European and Other Heritage Construction Environmental Management Plan. The Department of Infrastructure and Regional Development (represented by the Western Sydney Unit (WSU)) is responsible for carrying out relevant actions on behalf of the Commonwealth.

Once an Airport Lease is granted to WSA Co, the Commonwealth will no longer be the 'Site Occupier' for the purposes of the Airport Plan Conditions. Instead, WSA Co will be the Site Occupier and WSA Co will then need to determine how it will comply with Airport Plan Condition 12(1) (b) and the requirements in Table 28-15 in Chapter 28 of the EIS.

It is noted that, once an Airport Lease is granted, Regulation 4.05 of the *Airports (Environment Protection) Regulations 1997* will also apply in relation to Western Sydney Airport (unless sooner amended). Regulation 4.05 imposes a duty on each operator of an undertaking at an airport to give notice of the discovery of cultural objects of previously unrecognised significance to the Airport Lessee Company and the airport environment officer for the airport. The Airport Lessee Company or airport environment officer is then required to seek expert advice on any appropriate conservation measures, consult with the operator about reasonable means of giving effect to such measures and record the discovery in the environmental site register for the airport. However, Regulation 4.05 does not apply at Western Sydney Airport during the pre-lease period.

This interim protocol has been adapted from information in EIS Volume 4, Appendix M2, (pages 82-83). The protocol is part of a wider mitigation program to address unintended risk to heritage items. A related aspect is pre-construction induction training for European and other heritage items for contracted site workers and employees on the site and where appropriate, training for item

¹ Department of Infrastructure and Regional Development, 2016

² EIS Volume 2b Stage 1 development, Table 28-15, page 42, Unexpected finds – European heritage items and unmarked graves/human remains.

identification and management for specific workers on the site. Induction training should also address what to do in the event of finding human remains.

Protocol

In the event that, during the period before an Airport Lease is granted and the European and Other Heritage Construction Environmental Management Plan is approved, an item (or items) is discovered on the Western Sydney Airport site which is suspected to be a European or other heritage item, or an unmarked grave with human remains, the following procedure is to be adopted:

- 1) Preparatory Activities which involve excavation or ground disturbance activities must cease immediately in the immediate area to prevent any further impacts to the items(s).
- 2) The person making the discovery must notify the onsite manager immediately.
- 3) The onsite manager will:
 - a) Record the location and nature of the items(s) and notify WSU;
 - b) Ensure the items(s) is retained in situ;
 - c) Safeguard the immediate area from further disturbance by demarcating it as a 'no go area' and using signage, temporary marking and fencing;
 - d) Assess whether or not Preparatory Activities can continue in the surrounding area with safeguards in place; and
 - e) Advise and consult WSU on whether or not Preparatory Activities in the surrounding area can proceed safely and without disturbance to the item(s) or as yet still obscured but associated item(s), and under what conditions (e.g. adequate fencing to safeguard the item(s)) and ensure site safety is managed (e.g. any excavations are safe, appropriate personal protective equipment is used).
- 4) WSU will:
 - a) Be responsible for notifying the NSW Police immediately in the event that item(s) indicate there is a possibility of an unexpected unmarked grave or item(s) are obviously, or are determined to, comprise/include human remains. All related directions from the Police or the Coroner take priority over those defined in this procedure ;
 - b) Consider and decide on the feasibility and safety of any Preparatory Activities in the immediate area continuing or not while the item(s) is verified and recorded, including whether any excavation remains open (backfilling of an excavation may be necessary for safety reasons);
 - c) Consider and decide on whether or not Preparatory Activities and any related work can proceed in the immediate and surrounding area, if and as necessary after consultation with:
 - i) a qualified archaeologist who would advise if:
 - (1) the item(s) is of European or other heritage value and its likely significance in relation to the nature, extent and frequency of the item(s) recorded through European and other heritage survey work undertaken across the Western Sydney Airport site³, and

³ The archaeologist should provide scientific significance, based on criteria and characterisation that should provide evidence that answers the question as to whether the item(s) are of archaeological heritage value and the term for those item(s).

- (2) there is substantial potential that associated but as yet obscured item(s) remain undetected within the immediate and/or surrounding area;
 - ii) the Department of the Environment and Energy if appropriate e.g. if the find is of major heritage significance;
 - iii) the NSW Office of the Environment and Heritage if appropriate e.g. if the find is of major heritage significance.
- d) Assess and make a decision on the action to be taken in relation to the item(s) taking into account:
 - i) Any advice, if sought, from a qualified archaeologist;
 - ii) The nature and duration of the Preparatory Activities being undertaken in the area and the likely level of further disturbance in the immediate and surrounding area; and
 - iii) the circumstances and related actions under points 5 and 6.
- 5) Circumstances and related actions to be taken:
 - a) Isolated incidental disturbance (picking up an item and putting it back) and observation of naturally disturbed items (through erosion) are to be recorded but may not require any further action as long as the item remains in situ. The nature of the item and similar finds should be considered, if necessary, assessing the item for significance and further action. The item should be photographed, described and recorded with its GPS location for future reference in targeted archaeological investigations, inventories of moveable items or for activities of archival recording of European and other heritage under an approved Plan in that part of the Airport site, or under an approved European and Other Heritage CEMP addressing that part of the Airport site; or
 - b) For Preparatory Activities that involve site scraping, vegetation clearance, or excavation, or other major disturbance and where several item(s) are found, assessment and recording by a qualified archaeologist is appropriate to determine the nature, extent and significance of the find. The archaeologist will advise on the extent of temporary fencing of the area to reduce risk of disturbance. Preparatory Activities will be able to resume in the vicinity of the fenced area only when risk of further disturbance is mitigated.
- 6) If the item(s) is determined to be of European or other heritage significance by a qualified archaeologist, proposed management options could include:
 - a) Leaving the nominated find(s) in situ; or
 - b) Nominating the item(s) for salvage and temporary storage in a secure place onsite or offsite pending resolution of where nominated salvaged items could be kept in the medium and longer term;
- 7) Access to item(s) onsite or stored offsite will be limited to people with a need to manage the items. All access must be authorised by WSU and accompanied site visits arranged through the Site Manager during reasonable hours.
- 8) All discoveries and the actions taken will be recorded in a manner consistent with the recording of items during the EIS.