## CM14.1. Eastern Hill Activation Master Plan Due Diligence Studies Update

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| **FURTHER ENQUIRIES** | David Costello<br>City Landscapes | **PHONE** | 02 6023 8133 |
| **AUTHOR** | Nerilee Kerslake | | |

**Purpose of Report**

To provide Council with a summary of the findings from the Eastern Hill Activation Master Plan Due Diligence Assessments including the Biodiversity Assessment Report and the Aboriginal Cultural Heritage Assessment (Due Diligence) Report.

**Background**

Eastern Hill Reserve, including Devils Glen and Doctors Point Reserve, is a 77-hectare reserve that is zoned both C2 (Environmental Conservation) and RE1 (Public Recreation). It is located to the east of Central Albury, adjacent to the localities of East Albury, Mungabareena Reserve, Doctors Point and Eastern View Estate. It is currently accessed by residents and visitors for predominantly passive recreational purposes such as bushwalking, birdwatching and trail running. The Eastern Hill Rotary Lookout is a well-known vantage point to take in the views of Albury and its surrounding landscapes, including Mungabareena Reserve which has significant cultural value, being declared an 'Aboriginal Place' in 2016.

The Eastern Hill Activation Master Plan (Attachment 1) was endorsed by Council on 27 November 2023 following extensive community consultation. As part of the resolution, it was requested that staff *"Undertake a Biodiversity Assessment and a full Aboriginal Cultural Heritage Assessment (including consideration of tangible and intangible heritage) prior to any detailed design"*.

To address this resolution, qualified consultants were engaged to undertake both Biodiversity and Aboriginal Cultural Heritage Assessments. The scope of the assessments are outlined below:

*Biodiversity Assessment*

- Field survey to assess the likelihood of the area/habitat supporting threatened species or ecological communities;
- Description and mapping of vegetation likely to be impacted by proposed Master Plan works; and
- Opportunities for enhancement of habitat values on Eastern Hill.

*Aboriginal Cultural Heritage Assessment*

- Identify whether Aboriginal objects and values (both tangible or intangible) are or are likely to be present within the area of proposed works;
- Determine whether proposed activities are likely to harm Aboriginal objects or values (if present); and
- Determine whether further studies are required or if an Aboriginal Heritage Impact Permit (AHIP) application is required for the proposed works.

This report provides Councillors with the key findings from these assessments, noting that this information will need to be considered further as projects associated with the Eastern Hill Activation Master Plan progress further into the design phase.

**Issues**

As a part of the engagement process for these studies, the community was invited to assist the consultants in gathering critical local information. The community was asked to provide relevant information on the area's biodiversity or cultural heritage values that may be contained within the study area.

In total 27 comments (21 associated with biodiversity and 6 associated with Aboriginal cultural heritage) were received along with 24 map contributions (all biodiversity related) through the 'Have your Say' platform.

Due to the technical expertise required to undertake the studies, separate consultants were engaged for both the Biodiversity and Aboriginal Cultural Heritage Assessments.

*Biodiversity Assessment*

Consultants from Australian Wetlands Consulting Pty Ltd were engaged to complete the Biodiversity Assessment (Attachment 2) and develop an associated Vegetation Management Plan (Attachment 3).

Field assessments were completed on the 17-18 January 2025 by qualified ecologists and consisted of the following:

- Ground truthing Plant Community Types (PCT) and associated Threatened Ecological Communities (TEC);
- Targeted threatened flora survey and assessments of suitable habitat on site;
- Opportunistic fauna survey based direct observations, ie. visual and aural and indirect observations, ie. scats and tracks;
- Identification of fauna habitat including, but not limited to, hollow bearing trees, nests, decorticating bark;
- Priority weed mapping; and,
- Identification of likely direct and indirect impacts to biodiversity.

The field assessment determined that:

- Four Plant Community Types (PCTS) occur in good, moderate and degraded conditions.
- One Threatened Ecological Community (TEC) occurs - White Box Grassy Woodland. This community is listed as Critically Endangered and exists in a degraded to moderate condition across approximately 32 ha of the site. Impacts to this threatened community must be avoided.
- No threatened flora or fauna species were recorded, although based on the habitat present and site context there is potential for several threatened species to occur.
- One priority weed species was identified – Blackberry (Rubus fruticosis).
- Billabongs and secondary branches of the Murray River pass within 100m of the site.

*Impacts and Mitigation Measures*

Direct impacts as a result of the Eastern Hill Activation proposal consist of those that directly affect the habitat of species and ecological communities, as well as individuals using the site. Indirect impacts occur when project-related activities affect species or ecological communities in a manner other than direct loss from the site. A summary of the proposed impacts and mitigation measures can be found below:

| Impact | Impact (Direct and Indirect) | Impact severity | Mitigation Measures |
|---|---|---|---|
| **Vegetation Clearing/ Construction** | **Direct**<br>• Loss of 0.47ha of native vegetation t=(ground layer only):<br>o PCT 266 – 0.18ha<br>o PCT 269 – 0.19ha<br>o PCT 5 – 0.1ha<br>• Thinning of dense regenerating eucalypt stands (removal of saplings only).<br>• Unintended removals / disturbance outside of alignment. | Low | **Direct**<br>• Design is to avoid all mature trees.<br>• Where proposed tracks pass through regenerating eucalypt woodland with high stem density removal of tree species is to preference retention of mature individuals as per 'ecological thinning' practices.<br>• Alignment is to be clearly marked (flagging tape / paint and GPS) where passing through native vegetation.<br>• No-go zones established at edge of works in TEC and flagged to prevent incursions.<br>• Construction plant laydowns to be located outside of assessed areas and (ie. TECs, habitat features).<br>• Manage retained vegetation with a Vegetation Management Plan (VMP). |

| Impact | Impact (Direct and Indirect) | Impact severity | Mitigation Measures |
|---|---|---|---|
| | **Indirect**<br>• Increased risk of weed incursion.<br>• Increased risk of erosion and sedimentation.<br>• Noise & vibration.<br>• Spread of pathogens and weeds.<br>• Increase in edge effects. | | **Indirect**<br>• Reduce risk of weed incursion through appropriate Biosecurity practices such as “Arrive Clean, Leave Clean”.<br>• Implement erosion and maintain sediment controls in accordance with the best practices guidelines outlined in the ‘Blue Book’ *Managing Urban Stormwater: Soils and construction - Volume 1 4th edition*.<br>• Works are to occur during standard construction hours.<br>• All plant and machinery are to be in serviceable condition.<br>• Works in native habitat must follow hygiene protocols detailed in *Saving Our Species Hygiene Guidelines* (DPIE 2020)<br>• Vegetation to be managed via a Vegetation Management Plan. |
| **Recreational use** | **Indirect**<br>• Increased risk of weed incursion.<br>• Increased risk of erosion and sedimentation.<br>• Increased level of human and/or dog interaction.<br>• Increased gross pollution. | Low | **Indirect**<br>• Ongoing vegetation management by community groups or Council monitor weed presence and erosion along tracks.<br>• Dogs to be on leash to reduce impacts on active fauna.<br>• Signage to indicate for pedestrians to remain on tracks to minimse impacts to sensitive ecological area.<br>• Rubbish bins provided at key locations (look outs, car parks). |
| | **Indirect**<br>• Decreased off-track walking / unsanctioned trail construction. | Low (Positive) | **Indirect**<br>• Install signage to indicate pedestrians to remain on tracks to minimise impacts to sensitive |

| Impact | Impact (Direct and Indirect) | Impact severity | Mitigation Measures |
|---|---|---|---|
| | | | ecological area.<br>• Monitor ongoing use of the park to ensure off-track impacts continue to be minimised. |
| **Threatened Species Habitat** | **Indirect**<br>• Proximity impacts to:<br>o Koala food trees<br>o Nectar bearing trees<br>o Woody debris<br>o Bush rock<br>• Potential disturbance of Sloane's Froglet (*Crinia sloanei*) breeding habitat. | Low | **Indirect**<br>• Track alignment to preferentially avoid piles of coarse woody debris, trees with overhanging, dying branches and large rock piles.<br>• Where avoidance is not possible microhabitat features should be relocated nearby.<br>• Relocation of hollow logs should ensure hollows face away from trail.<br>• Construction of boardwalks to occur in dry periods outside of June-August breeding season for Sloane's Froglet.<br>• Construction not to be carried out in the two days following rainfall events to minimise impacts to amphibians.<br>• Construction and bush regeneration works to follow *Saving Our Species Hygiene Guidelines* (DPIE 2020) to minimise risk of spreading chytrid fungus. |
| **Microhabitat disturbance** | **Indirect**<br>• Relocations.<br>• Proximity impacts. | Low | See above |

| Impact | Impact (Direct and Indirect) | Impact severity | Mitigation Measures |
|---|---|---|---|
| **Impacts to Aquatic Habitat** | **Indirect**<br>• Works partially located in riparian buffer zones. | Low | **Indirect**<br>• Ensure drainage features are not substantially altered through blocking by earthworks.<br>• Riparian and drainage lines to be a focus of restoration works in a Vegetation Management Plan. |

*Eastern Hill Activation Master Plan - Biodiversity Assessment Pages 39-41.*

In summary, the Biodiversity Assessment and associated Vegetation Management Plan has assessed the likely impacts from implementation of the Eastern Hill Activation Management Plan in both construction and operation stages. It is considered that the overall impact to biodiversity is low, and that the project will not result in significant impacts to threatened species or TECs listed under NSW and Commonwealth legislation.

*Aboriginal Cultural Heritage Assessment*

Consultants from OzArk Environment & Heritage (OzArk) were engaged to undertake the Aboriginal Cultural Heritage Due Diligence Assessment (Attachment 4).

A visual inspection of the study area was undertaken on 25 February 2025 by an OzArk Principal Archaeologist, an OzArk Heritage Consultant and an Albury and District Local Aboriginal Land Council (LALC) Field Officer. No Aboriginal sites or objects have been previously recorded in the study area, and no additional sites were recorded during the visual inspection of the study area. Further, no landforms with subsurface archaeological potential were identified.

In addition to the field survey, a knowledge gathering exercise was conducted by OzArk with three Elders from the local Aboriginal community on 26 and 27 February 2025, as well as with representatives from the AlburyCity Aboriginal Advisory Committee. Intangible Aboriginal cultural heritage values were identified during this process, with Elders emphasising that the Eastern Hill precinct was an important viewing point during the Bogong Moth Festival and acted as a sanctuary for Aboriginal people, animals, and plants, particularly in times of flood. Because of these intangible values, the consultants noted that the Elders would like it to remain as undisturbed as possible by the project, while still allowing access to visitors.

The undertaking of the due diligence process resulted in the conclusion that the proposed works will have an impact on the ground surface, however, no Aboriginal objects or intact archaeological deposits will be harmed by the project. This moves the project to the following outcome:

*"Aboriginal Heritage Impact Permit application not necessary. Proceed with caution. If any Aboriginal objects are found, stop work, and notify Heritage NSW 131 555 (info@environment.nsw.gov.au). If human remains are found, stop work, secure the site, and notify NSW Police and Heritage NSW.*

To ensure the greatest possible protection to the area's Aboriginal cultural heritage values, the following recommendations are made:

1. The proposed work may proceed at Eastern Hill and associated precincts without further archaeological investigation.
2. Impact to the natural environment, specifically the Kurrajong, River Red Gums, Blakely's Red Gums, Stringybark and Grey and White Box trees should be avoided wherever possible, as these trees have been identified as holding Aboriginal cultural values.
3. The knowledge gathered through consultation with local Aboriginal Elders, as presented in Section 2.3.7, should be used to inform future decision making and the Elders who were consulted by OzArk should be invited to join ongoing discussions throughout the design phase of the project.
4. All land and ground disturbance activities must be confined to within the study area, as this will eliminate the risk of harm to Aboriginal objects that may be in adjacent landforms. Should the parameters of the proposal extend beyond the assessed areas, then further archaeological assessment may be required.
5. This assessment has concluded that there is a low likelihood that the proposed work will adversely harm tangible Aboriginal cultural heritage items or sites. If during work, however, Aboriginal artefacts or skeletal material are noted, all work should cease and the procedures in the Unanticipated Finds Protocol (Appendix 2) should be followed.
6. Inductions for work crews should include a Cultural Heritage Awareness Procedure to ensure they recognise Aboriginal artefacts (see Appendix 3) and are aware of the legislative protection of Aboriginal objects under the *National Parks and Wildlife Act 1974* and the contents of the Unanticipated Finds Protocol.
7. The information presented here meets the requirements of the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales. It should be retained as shelf documentation for five years as it may be used to support a defence against prosecution in the event of unanticipated harm to Aboriginal objects.

**Strategic Alignment**

*Towards Albury 2050 Community Strategic Plan*

This project aligns with the following outcomes from the Towards Albury 2050 Community Strategic Plan:

Theme One – A Growing Sustainable Economy.

1.3 Albury offer and supports diverse and evolving tourism experiences:
- 1.3.1 Create and support authentic and engaging visitor experiences.

Theme Two – An Enhanced Natural Environment.

2.4 Albury responsibly protects, concerves and enhances our natural assets:
- 2.4.2 Preserve, enhance and restore biodiversity to strengthen our natural assets; and,
- 2.4.3 Provide open spaces, parklands and improve access to our natural surroundings.

Theme Three – A Caring Community.

3.4 Albury is inclusive and accessible for all ages and abilities.

3.4.1 Plan and develop infrastructure that is accessible for all.

*Two Cities, One Community – Community Strategic Plan 2022 – 2025*

Section 1: Our Economy.

1.2 We are a destination that offers a variety of experiences, attractions and events for all.

Section 2: The Environment.

2.2 We preserve, experience and promote the beautiful and unique area we live in.

2.5 We will partner with and support our community to deliver on improved environmental outcomes

*Regional Natural Environment Strategy*

This is a Two Cities One Community Strategy that identifies Albury Wodonga's significant environmental assets, the major threats to these assets, as well as key actions to be undertaken in relation to managing biodiversity. It is the key strategy to support decision-making relating to environmental lands, parks and gardens management, nature-based recreational projects, and community engagement initiatives across Albury Wodonga. The proposed ecological restoration activities identified in the draft Eastern Hill Activation Master Plan are strongly consistent with the intent of the Regional Natural Environment Strategy, and will help protect, retain, and enhance habitat for a range of key species.

*Albury Mountain Bike Strategy*

2.1.3 Establish a locally significant trail network at Eastern Hill.

- Undertake detailed design for a trail network at Eastern Hill.
- Hume and Hovell Track alignment refined and incorporated into the network design to minimise user conflict.
- Revegetation program incorporated into the trail development to improve both ecological value and visitor experience.

*AlburyCity Disability Inclusion Action Plan*

2.3 Continue to make parks and play spaces more accessible and inclusive, with design informed by the 'Everyone Can Play Guidelines'.

*NSW Public Spaces Charter*

- Principle #1: Open and Welcoming – everyone can access public space and feel welcome, respected and included.
- Principle #2: Community Focused – public space brings people together and builds strong, connected and resilient communities.

- Principle #3: Culture and Creativity – public space provides a platform for culture and creative expression that makes places more colourful, animated, and thought provoking.
- Principle #4: Local Character and Identity – public space reflects who we area and our diverse stories and histories.
- Principle #5: Green and Resilient – public space connects us to nature, enhances biodiversity and builds climate resilience into communities.
- Principle #6: Healthy and Active – public space allows everyone to participate in activities that strengthen our health and wellbeing.
- Principle #8: Safe and Secure – everyone feels safe to access and use public space at all times of the day.
- Principle #9: Designed for Place – public space is flexible and responds to its environment to meet the needs of its community.
- Principle #10: Well-managed – well-managed and maintained public space functions better and invites people to use and care for it.

*Adventure Cycling Strategy – Department of Regional NSW*

Vision – NSW will be the home of Australia's premier adventure cycling destinations capitalising on the diverse natural beauty across our State to strengthen our visitor economies and support community health, connections, and wellbeing.

Objective 2 – Increase access so local communities can enjoy quality adventure cycling experiences in green and public spaces.

*Murray River Experience Master Plan*

Eastern Hill is identified in conjunction with Mungabareena Reserve in the Murray River Experience Master Plan, which identifies the following site upgrades:

- Replacement of public amenities to provide access for all abilities;
- Replacement of park furniture and the provision of interpretive signs; and
- Upgrading of the Hume and Hovell Track.

*Plan of Management for Community Land*

The AlburyCity Plan of Management (PoM) for Community Land (2016) outlines how Council manages Council-owned and managed Community Land. Both Eastern Hill Reserve and Devils Glen Reserve are classified as 'Natural Area' (Bushland) within the PoM, and the permitted uses that can be undertaken within Community Land categorised as 'Natural Area' include activities that:

1. support a variety of flora and fauna habitat;
2. assist in maintaining biodiversity, water and air quality;
3. provide aesthetic relief from urban areas; and
4. form some recreational opportunities.

**Risk**

- **Business Risk** – The endorsed Master Plan will have future implications on budget and resourcing to deliver the actions identified. Future implementation of any actions will require resourcing that can be considered through Council's operational planning and capital works programming and budgeting processes.

  Under the NSW *Environmental and Planning Assessment Act 1979* and the *Biodiversity Conservation Act 2016*, AlburyCity has an obligation to assess biodiversity values prior to any works commencing, and plan so that significant impacts to these values are avoided and minimised wherever possible. Similarly, any potential impacts to Aboriginal cultural heritage must also first be assessed under the *National Parks and Wildlife Act 1974* to identify any significant Aboriginal cultural heritage values prior to any works commencing and plan so that these impacts to the values are avoided and minimised wherever possible. This project undertook relevant biodiversity and cultural heritage investigations to mitigate these risks, and the findings from these reports can be considered further as part of the future design process.

- **Corporate Risk** – This Master Plan has been the subject of extensive public scrutiny and media interest. This is expected to continue, and it will be important for Council to continue to engage with the community on any studies or proposed detailed designs and work associated with the endorsed Master Plan. The biodiversity and Aboriginal cultural heritage investigations have provided an additional opportunity for key stakeholders and the broader community to share their biodiversity and Aboriginal cultural heritage knowledge of the site, thereby reducing the potential impact on the natural environment and heritage values as the Master Plan is progressively implemented.

- **WHS and Public Risk** – These are not generally considered in the development of the Due Diligence Assessments, however, will be considered at a high level during the design planning process.

- **Environmental Risk** – These due diligence assessments provided some high-level environmental and heritage assessment of the area. As future projects are developed, environmental and heritage risks will be considered through the design phases as each project in the Master Plan has funding to progress. The preparation of the Biodiversity Assessment and Aboriginal Cultural Heritage Assessment will importantly be used to inform the detailed design phase associated with each of the Master Plan concept elements, and thereby allow an 'avoid and minimise' approach to ensure that any proposed works are designed in a way to avoid and minimise any impact on the natural environment and Aboriginal cultural heritage values.

- **Delivery Program Risk** – The development of these due diligence assessments will inform future detailed designs for projects within the Master Plan. It is noted that there is currently no funding identified within the Council endorsed Four-Year Delivery Program to progress detailed design for key projects identified within the Eastern Hill Activation Master Plan, although this can be reviewed annually as part of Council's budget deliberations.

**Engagement**

The Eastern Hill Activation Master Plan has undergone considerable consultation since first being released to the public for comment. In preparation for these due diligence assessments, the community was provided with an opportunity to provide feedback or information related specifically to either the biodiversity or Aboriginal cultural heritage within the Eastern Hill site.

A 'Have your Say' platform was open from 9 January to 6 February 2025. During this period, 51 individual contributions were made from 26 different contributors. Of these 51 contributions, 27 (21 biodiversity and 6 Aboriginal cultural heritage) were individual comments and 24 (all biodiversity) were specific locations with comments on the study area map.

All the comments collected as part of the consultation period were provided to consultants for further consideration and validation.

In addition, a knowledge gathering exercise was conducted by OzArk as part of the Aboriginal Cultural Heritage Due Diligence Assessment. This included a site visit and "yarn" with local knowledge holders and the Aboriginal Advisory Committee. As described earlier, because of these intangible values, the Elders noted that they would like it to remain as undisturbed as possible by the project, while still allowing access to visitors.

**Options**

1. That Council receive and note this report and the completion of the Eastern Hill Activation Master Plan Due Diligence activities. **Recommended.**

   This is the preferred option given that independent consultants were engaged to undertake these studies, which included broader engagement with the community and more specific consultation undertaken with Elders from both the Aboriginal Advisory Committee and the Dyirramalang Elders Group.

2. That Council does not endorse this report, or recommendations and requests further information regarding the Eastern Hill Activation Master Plan Due Diligence activities prior to going back to Council for noting. **Not Recommended.**

**Conclusion**

The due diligence assessments requested through the resolution of Council when endorsing the Eastern Hill Activation Master Plan have identified that there are likely to be no significant biodiversity or Aboriginal cultural heritage impacts of the proposed projects identified in the Master Plan. Both assessments provide mitigation measures that can be implemented in the detailed design phase of these projects to further protect and enhance the environmental and Aboriginal cultural heritage values of Eastern Hill. Each of the projects within the Master Plan will require a Review of Environmental Factors (REF) to be completed prior to any construction commencing, which will provide another opportunity to minimise impact to the area.

**Recommendation**

That Council:

a. receive and note the Eastern Hill Activation Master Plan Biodiversity Assessment, Vegetation Management Plan and Aboriginal Due Diligence Assessment Report;

b. share the update and information with the AlburyCity Aboriginal Advisory Group and Dyirramalang Elders Group for information; and

c. add the Due Diligence reports to the AlburyCity website under the relevant project area.

**Attachments**

1. Eastern Hill Activation Master Plan – Final Draft (DOC23/420354).
2. Eastern Hill Activation Master Plan Biodiversity Assessment (DOC25/128036).
3. Eastern Hill Activation Master Plan Vegetation Management Plan (DOC25/128038).
4. Eastern Hill Activation Master Plan Aboriginal Due Diligence Assessment Report (DOC25/129099).