



Department of Primary Industries

OUT15/19006

Mr David Mooney
Industry Assessments
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21 SEP 2015

Dear Mr Mooney,

Energy From Waste Proposal, Eastern Creek (SSD_6236) Response to exhibition of Environmental Impact Statement

I refer to your email dated 19 May 2015 requesting advice from the Department of Primary Industries (DPI) in respect to the above matter.

Comment by DPI Water

DPI Water has reviewed the Environmental Impact Statement and provides detailed comments in Attachment A, recommended conditions of approval in Attachment B and the following comments.

Clarification is required on the riparian corridor width required to be established along either side of the Ropes Creek Tributary at the site and whether the riparian corridor width is meant to be consistent with *SEPP 59 – Eastern Creek Precinct Plan (Stage 3)*. The project as presented in the EIS is not consistent with the riparian corridor width outlined in the precinct plan. The project layout may need to be amended depending on the minimum width that is required to be established along the creek.

The proponent needs to clarify and provide details as to whether short term or long term groundwater dewatering is proposed, the period of time it is proposed to dewater and the total volume that is anticipated to be dewatered. If the project is proposing to extract 25 ML during construction a licence under the *Water Act 1912* is required.

For further information please contact Janne Grose, Planning and Assessment Coordinator (Penrith office) on 8838 7505 or at janne.grose@water.nsw.gov.au.

Yours sincerely

A handwritten signature in red ink, appearing to read 'Kristian Holz'.

Kristian Holz
Policy, Legislation and Innovation

Attachment A

Eastern Creek Energy From Waste Proposal (SSD_6236) Response to exhibition of EIS Additional Comments by DPI Water

Protection of Watercourses and Riparian land

In its submission on the draft EIS, the Office of Water queried why the proposed riparian corridor either side of the Ropes Creek Tributary is not consistent with the *State Environmental Planning Policy (Western Sydney Employment Area) 2009* and *SEPP 59 – Eastern Creek Precinct Plan (Stage 3)* and recommended:

- the EIS and relevant appendices are amended so the riparian corridor width is consistent with the Precinct Plan (Stage 3), or alternatively,
- the EIS justify why it is inconsistent with the adopted precinct plan.

The Director General's Requirements issued for SSD-6236 require an assessment of the development against *State Environmental Planning Policy (Western Sydney Employment Area) 2009*. Clause 19 (2) of this SEPP states "*in determining a development application that relates to any land to which an existing precinct plan applies, the consent authority is to take the existing precinct plan into consideration*". Clause 19(3)(b) of the SEPP lists the Eastern Creek Precinct Plan (stage 3) as an existing precinct plan.

SEPP 59 – Eastern Creek Precinct Plan (Stage 3) includes the following controls 5.6.1 (e), 8.3.5 (b), 8.4.3 (d) which relate to the riparian corridor along Ropes Creek Tributary:

*5.6.1 (e) Development adjoining riparian corridors and trunk drainage channels (including detention basins and wetlands) must include a **10m buffer zone** consisting of a landscaped open space area that can tolerate occasional flooding*

8.3.5 (b) When measured from the top of the bank on either side of the creek, development consent shall not be granted, except for development associated with the protection, enhancement and management of the riparian corridor, on land within the precinct that is within:

- *40m of Ropes Creek Tributary*

8.4.3 (d) APZ's are to be located wholly within the development site, outside of any conservation area or riparian corridor

It would appear a 20m wide riparian zone is proposed to be established along each side of the Ropes Creek Tributary although the EIS and technical reports are confusing in that they refer to a 20m wide and a 40m wide riparian width, for example:

- Table 15 in the EIS indicates the development has been sited outside the 40m setback to the riparian corridor (page 105)
- Section 15.4.4 of the EIS notes the proposed facility and network excludes the riparian zone which extends 20m each side of the creek (page 159)
- Figure 28 in the EIS shows a 20m riparian setback is to be established either side of the creek
- Appendix F refers to a 20m wide riparian zone either side of the creek (section 3.1, page 5)
- Appendix H indicates works are proposed within 40m of the Ropes Creek Tributary and the southern boundary of the development footprint will be approximately 20m north of the creek (see section 8.2.1, page 74)

- In response to Council's comments that the proponent is to demonstrate on the site plans that no works are proposed within 40m of the creek, Appendix A indicates the revised design submission demonstrates compliance.

The EIS notes an assessment of the proposed works against the provisions of the Eastern Creek precinct plan has been undertaken (Section 8.6, page 93) but a 20m wide riparian setback is not consistent with the Eastern Creek precinct plan. The precinct plan requires a 40m wide riparian corridor plus a 10m wide buffer zone to be established along either side of the Ropes Creek Tributary. Clarification is required on the riparian corridor width that is required to be established along either side of the Ropes Creek Tributary.

Appendix F notes the OSD basin will be positioned outside the riparian zone of Ropes Creek Tributary (section 4.2, page 9) but depending on the riparian width that is to be established, the basin may be located within the riparian corridor, as Appendix H indicates the basin is directly adjacent to and up-gradient to the tributary (Section 8.2.2, page 86).

Section 2.1.3 of the EIS indicates the 20m wide riparian zone either side of the tributary is set by the *Water Management Act 2000* (page 12). If the project is applying the Office of Water's guidelines (2012) for riparian corridors rather than the Eastern Creek precinct plan, it should be noted the Office of Water guidelines do not over-ride any other authorities' riparian setback requirements.

If the SSD is approved, it is recommended a condition of approval is included which specifies the riparian corridor width required to be established along either side of the Ropes Creek Tributary at the site. The project layout may need to be amended depending on the minimum width that is required to be established along the creek.

Appendix H indicates a Vegetation Management Plan for the Ropes Creek Tributary can be prepared as required (Section 8.2.1, page 74). The former DWE recommended the riparian zone be replanted as part of MP06_0139 (Eastern Creek (Light Horse) Waste Project). Condition 60 of Schedule 3 of the Project Approval for MP06_0139 required the proponent to prepare and implement a Landscape and Vegetation Management Plan. The condition outlines that this plan must include detailed plans and procedures "to restore and maintain the waterways and riparian zones of the Ropes Creek tributary on the site". The Office of Water recommended in its submission of 22 November 2011 on MP06-0139 (Mod 3) that the riparian zone widths should be in accordance with the adopted *SEPP 59 – Eastern Creek Precinct Plan (Stage 3)* and recommended the VMP reflect the precinct plan controls 5.6.1 (e) and 8.3.5 (b).

DPI Water reiterates that the VMP should include (but not be limited to) details on the location of bed and banks and the footprint of the riparian zone to be established either side of the creek (measured from top of bank); vegetation species composition, planting layout and densities; seed/plant sources should be identified; the planting program, rehabilitation methods and staging and other revegetation techniques such as hydro seeding, direct seeding or assisted natural regeneration; maintenance requirements; processes for monitoring and review including a method for performance evaluation.

Table 6 and Section 8.16 of the EIS indicate the proposal involves the part removal of a first order watercourse and that informal approval has been obtained from the Office of Water via email correspondence (pages 60 and 103). For transparency the proponent should provide a copy of the Office of Water's informal approval.

Groundwater

Section 5.3.3 of Appendix Q notes groundwater was not encountered during the geotechnical investigation carried out in July 2014, other than a shallow water table in one low lying location (page 27). The depth of the geotechnical work needs to be specified.

Appendix Q notes some seepage of groundwater is expected during excavation but inflow rates are expected to be low and neither a formal dewatering system, or a licence for temporary dewatering are expected to be required (Section 5.3.3, pages 27 and 28). It notes the development is not expected to intersect groundwater levels except for the waste bunker (Section 7.3, page 37) which has the potential to obstruct shallow groundwater flow (section 6.4, page 31) and indicates a drainage and pump out system will be incorporated into the waste bunker (Section 7.3, page 37).

Appendix Q states the total groundwater inflow is expected to be less than 3 ML/year (Section 5.3.3, page 28) but Section 6.8.2 of Appendix Q notes the NOW generally applies an informal exemption to dewatering from a water table aquifer where the pump rate is less than 10 L/s and the total quantity of groundwater pumped is less than 25000 kilolitres. It indicates construction dewatering requirements for the proposed development are expected to meet these criteria (page 35). Details need to be provided on the period of time that it is proposed to dewater. Appendix CC notes the exemption from a dewatering licence is only available if the pump rate does not exceed 10L/sec over a period of 30 consecutive days (Section 3.3, page 26) which equates to 25 ML. The extraction of 25 ML is not exempt from the need for a water licence under the *Water Act 1912* and the EIS, Appendix Q and Appendix CC need to be amended.

The proponent needs to clarify and provide details as to whether short term or long term groundwater dewatering is proposed, the period of time it is proposed to dewater and the total volume that is anticipated to be dewatered.

End Attachment A

Attachment B

Eastern Creek Energy From Waste Proposal (SSD_6236) Response to exhibition of EIS DPI Water - Recommended Conditions of Approval

1. A riparian zone shall be established and maintained along Ropes Creek Tributary on the site, for its entirety within the site. The extent of the riparian zone is to be measured horizontally landward from top of bank either side of the watercourses and the width is to be consistent with *SEPP 59 – Eastern Creek Precinct Plan (Stage 3)*.
[Note this condition needs to specify the minimum riparian corridor width that is required to be established along either side the Ropes Creek Tributary at the site. The condition needs to clarify if the riparian corridor width is meant to be consistent with SEPP 59 – Eastern Creek Precinct Plan (Stage 3)]

2. The Proponent shall prepare and implement a Vegetation Management Plan (VMP) for the protection and rehabilitation of riparian land at the site. The VMP is to be consistent with the Department of Primary Industries Office of Water (2012) *Guidelines for vegetation management plans on waterfront land* and include but not necessarily be limited to:
 - (i) the location of the top of bank; the riparian corridor width (measured from top of bank); the location of any existing native riparian vegetation to be protected and the areas to be restored, including detailed scaled diagrams/maps;
 - (ii) mitigation measures to be implemented to avoid, protect and/or minimise potential impacts on riparian vegetation;
 - (iii) strategies to progressively rehabilitate/ regenerate/revegetate riparian vegetation, including vegetation species composition, planting layout and densities; seed or plant sources;
 - (iv) a monitoring and maintenance program. The program shall include:
 - details on the monitoring locations;
 - performance indicators;
 - details on the responsibilities, timing and duration of monitoring;
 - contingencies where rehabilitation of vegetation fails;
 - ongoing maintenance including weed control;
 - reporting of monitoring results.

The Plan shall be submitted for the approval of the Secretary four months prior to construction commencing. Construction shall not commence until written approval has been received from the Secretary.

End Attachment B