



Date: 11 December 2018
Your reference: CSSI 9471
Our reference: DOC18/953411
Contact: Calvin Houlison
4224 4179

Rose-Anne Hawkeswood
Senior Environmental Assessment Officer
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001
E-mail: Rose-Anne.Hawkeswood@planning.nsw.gov.au

Dear Ms Hawkeswood

RE: Port Kembla Gas Terminal Critical SSI Major Project – EIS Exhibition (CSSI 9471)

Thank you for consulting us regarding the abovementioned critical state significant infrastructure project. We understand that the proposal comprises new berthing facilities, a permanently moored floating storage and regasification unit (FSRU) and a gas pipeline alignment connecting the facility to the eastern gas pipeline junction at Cringila.

Our comments on biodiversity, Aboriginal cultural heritage, coastal hazards, water quality and floodplain risk management are detailed at Attachment A and summarised below:

- The Biodiversity Development Assessment report (BDAR) correctly identifies and assesses potential habitat for Green and Golden Bell Frog (GGBF) (*Litoria aurea*) proposed for removal as a “prescribed impact” under the Biodiversity Conservation Act 2016. We recommend that the proposal calculate and provide an offset for GGBF, as allowed for (but not required) by the “prescribed impact” requirements of the Biodiversity Conservation Act 2016. The BDAR should also address offset requirements for Southern Myotis, which is now identified as a full species credit species under the Biodiversity Conservation Act 2016.
- We support the proposed alignment of the gas pipeline as proposed, which has been refined from SEARs stage to avoid harm to the recorded Aboriginal heritage site 52-2-3618 and area of archaeological potential. If the impact footprint changes further, then an updated Aboriginal cultural heritage assessment must be conducted. This may require Aboriginal community consultation and archaeological test excavation. We also recommend that a procedure for managing Aboriginal objects if found or suspected during works is developed, and that the AHIMS site card for site 52-2-3618 is updated. A full summary of recommendations is provided at Attachment A.
- We recommend that a comprehensive description of key elements to be addressed in the operational plans for the proposed development, which are yet to be prepared, be provided at Response To Submissions stage. This information should reference the environmental monitoring and reporting methodology and specific water quality monitoring criteria to be applied to the project. A detailed description of how potential risks to water quality and marine environment receptors are to be managed against specific environmental indicators should also be contained within the Response To Submissions report.

- The Response To Submissions report should address how impacts of relevant coastal hazards will be incorporated into the design of the gas terminal infrastructure such that any significant risks to life, infrastructure and the environment will be managed in the event of a large coastal event in the near term and due to climate change impacts.

Please do not hesitate to contact Calvin Houlison, Senior Conservation Planning Officer on 4224 4179 or via e-mail on calvin.houlison@environment.nsw.gov.au should you have any further queries.

Yours sincerely



CHRIS PAGE

Senior Team Leader, Planning (Illawarra)

South East Branch

Conservation & Regional Delivery

Attachment A: OEH Detailed Comments on Port Kembla Gas Terminal Critical SSI Major Project - EIS Exhibition

OEH COMMENTS ON PORT KEMBLA GAS TERMINAL CRITICAL SSI MAJOR PROJECT – EIS EXHIBITION (CSSI 9471)

1. Biodiversity & Offsets

Policy & legislative context

The NSW Biodiversity Conservation (BC) Act 2016 commenced in August 2017. The BC Act provides that development applications exceeding certain thresholds must provide biodiversity offsets in accordance with the Biodiversity Assessment Method (BAM) under the BC Act. Transitional provisions allowing for use of the former planning provisions only apply to any major project or modification where SEARs were issued prior to commencement of the BC Act.

As SEARs for the Port Kembla Gas Terminal project were issued after the BC Act commenced, our recommended SEARs suggested a Biodiversity Development Assessment Report (BDAR) be prepared to assess the extent of the proposal's impacts in accordance with current legislation.

We have now reviewed the BDAR submitted in support of the proposal, and comments on areas of particular concern are provided below.

Removal of native vegetation

The proposal involves the clearing of a small portion of native vegetation which is proposed to be offset via the retirement of ecosystem credits. This has been attributed to PCT 1326 which has been determined as the "best fit" based on the minimal vegetation present. We have no objection to this approach.

Green and Golden Bell Frog

The Green and Golden Bell Frog (GGBF) has a historical presence within the Port Kembla harbour area, including within the proposed disturbance footprint. GGBF is listed as "endangered" under the NSW BC Act and "vulnerable" under the Commonwealth Environment Protection & Biodiversity Conservation (EPBC) Act 1999.

We note that the proposal includes the removal of a number of detention ponds which provide suitable habitat for the species. Under the BAM, impacts on such man-made structures are assessed under "prescribed impacts" as detailed at Clause 6.1 of the Biodiversity Conservation Regulation 2017 (BC Reg) where they provide habitat for threatened species.

There is no requirement to provide offsets for such "prescribed impacts", however under Clause 6.1 of the BC Reg these "may be taken into account" in calculating an offset liability in credits. Given the presence of the species within the port area, the nature of the population and the direct removal of a reasonable area of the remaining historically used habitat, we recommend that offset for the species be provided in the form of like-for-like credit retirement as allowed for in the BC Reg.

In order to calculate a suitable offset, a species polygon around all suitable habitat for GGBF should be drawn and offsets calculated using the BAM calculator. This would be consistent with previous approaches and approvals for projects in the Port Kembla harbour impacting upon GGBF habitat, including the bulk liquids terminal in the inner harbour (SSD 7264). We note that no surveys have been undertaken for the GGBF as part of this project.

Southern Myotis

The Southern Myotis has been identified as having suitable habitat within the project area, a portion of which is proposed to be directly removed. Southern Myotis is now identified as a full species credit species under the BC Act and supporting BAM. Therefore where habitat is present on a development site, the

species needs to be assessed in accordance with approved guidelines, and offsets provided. Alternatively, the species can be assumed to be present, and a species polygon and offset provided.

This has not been done for the Southern Myotis. Accordingly, we recommend that the BDAR be updated to address this species and calculate an appropriate offset liability in accordance with the BAM. A revised BDAR can then be provided at the Response to Submissions report stage. An updated and accurate BDAR is imperative in order for the consent authority to make a determination.

2. Aboriginal Cultural Heritage

Aboriginal cultural heritage assessment

We support the proposed alignment of the gas pipeline as changed to avoid harm to the recorded Aboriginal heritage site 52-2-3618 and area of archaeological potential (GHD 2018, Appendix I, p.34). The alignment of the connection from the steel works to the west side of Springhill Road has been moved further north to avoid an area of archaeological potential.

It is further proposed that this section will be under-bored. This will reduce the risk to Aboriginal heritage by removing much of the open trenching. However, we do note that the areas of archaeological potential mapped by GHD (2018, Appendix I, p.34) are based on surface survey and background research. These areas have not been confirmed through archaeological test excavation.

GHD (2018, Appendix I, p.37) recommend that no further Aboriginal cultural heritage assessment work is required. In light of this assessment, the applicant must ensure that there are no impacts from construction or ancillary works (e.g. stockpiling and laydown areas) to the recorded Aboriginal heritage site and identified potential archaeological deposit (GHD 2018, Appendix I, p.34).

If the impact footprint changes then an updated Aboriginal cultural heritage assessment must be conducted. GHD is obligated to update the AHIMS site card for site 52-2-3618 with the results of their research and in accordance with s89A of the National Parks & Wildlife Act 1974. It is requested that DPE ensures this update has occurred and advises OEH as such.

Unanticipated finds procedure

To manage the risk of impacting unanticipated Aboriginal objects during works, the EIS proposes cultural heritage inductions for construction workers and a procedure to manage any suspected Aboriginal heritage items. We support these recommendations. The procedure for managing unanticipated finds must be developed before ground disturbance works start. OEH can provide further technical advice to assist with developing this procedure.

SEARs requirements

In relation to Aboriginal cultural heritage, the SEARs require an assessment *'having regard to the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (OEH 2010) and the Aboriginal Cultural Heritage Consultation Requirements for Proponents (OEH 2010)'*. The assessment has followed the Due Diligence Code of Practice.

However, the Consultation Requirements have not been followed. We understand this is because the pipeline was realigned to avoid the recorded Aboriginal heritage site and areas of potential archaeological deposit. The applicant did consult the Illawarra Local Aboriginal Land Council (ILALC) (GHD 2018, Appendix I p.2). An ILALC sites officer conducted the archaeological survey with the GHD archaeologist.

If the alignment changes and areas of potential archaeological deposit will be harmed, the applicant will need to conduct archaeological test excavation. In that event, full Aboriginal community consultation in

accordance with the Consultation Requirements and the NPW Regulation would be required. Additional consultation would also be required if Aboriginal objects are found during works.

Summary of recommendations

- Prepare a procedure for managing Aboriginal objects if found or suspected during works, as per the management measures presented in the EIS (GHD 2018, p.227).
- DPE to ensure GHD updates the AHIMS site card for site 52-2-3618.
- Ensure there are no impacts from construction or ancillary works to the recorded Aboriginal heritage site and identified potential archaeological deposit (GHD 2018, Appendix I, p.34).
- If the impact footprint changes then an updated Aboriginal cultural heritage assessment must be conducted. This may require Aboriginal community consultation in accordance with the Consultation Requirements and archaeological test excavation.

3. Coastal Hazards, Water Quality & Flooding

A review of the EIS and relevant accompanying technical information identifies a number of areas requiring further consideration.

Coastal hazards

Although the EIS incorporates an assessment of how the proposed development activities may influence coastal processes (i.e. Appendix F - Hydrodynamic Modelling Report), a description of how coastal processes impact on the proposal has not been undertaken and may impact on design. This includes consideration of how climate change may influence processes such as coastal hazards including inundation.

It is noted that sea level rise considerations are outlined within Appendix Q – Climate Change Risk Assessment. The EIS (page 331) states that the “residual likelihood of the impact has been assessed as unlikely, but the potential consequences include damage and disruption to infrastructure service and environmental damage.” The Response To Submissions report should address how impacts of relevant coastal hazards will be incorporated into the design of the gas terminal infrastructure such that any significant risks to life, infrastructure and the environment will be managed in the event of a large coastal event in the near term and due to climate change impacts.

Water quality

The technical information that accompanies the proposed dredging and reclamation activities is supported by an assessment of contamination of ‘Berth 101’ and the outer harbour placement area which clearly identifies the extent of contamination and potential environmental risks associated with these activities. However, the information regarding the dredging and reclamation environmental safeguards, including monitoring and reporting, is generic and does not allow for an informed assessment of how potential impacts to water quality and the marine environment will be either avoided, mitigated or monitored against specific environmental performance criteria.

The EIS outlines that additional information will be prepared to guide the delivery of the proposal including a dredge management plan and construction environmental management plan. The EIS also summarises how water quality objectives apply to the project (i.e. ANZECC 2000) and provides an overview of historical water quality which has been used as a proxy for ambient water quality conditions, however it is unclear how these guidelines will apply to the project.

A comprehensive description of the key elements to be addressed within each of the operational plans, which are yet to be prepared, should be provided at Response To Submissions stage. This information

should reference the environmental monitoring and reporting methodology and specific water quality monitoring criteria to be applied to the project. A detailed description of how potential risks to water quality and marine environment receptors are to be managed against specific environmental indicators should be contained within the Response To Submissions report.

This would assist with demonstrating how the potential impacts associated with the removal and placement of dredge material will be managed and the relevant general, contamination and water and soils SEARs have been addressed. Further advice on this issue should also be sought from the NSW EPA.

Floodplain risk management

A review of the EIS, identifies that the proposed pipeline will be installed below ground for its entirety and concludes there will be no changes to flow paths or flood storage. The consent authority should ensure that any further changes to the proposal does not lead to adverse impacts on flooding and that the impact of flooding on the development are considered and managed.