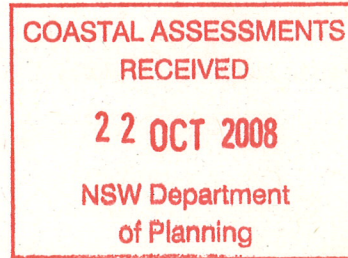


Our reference : DOC08/45512; FIL06/615  
Contact : Allison Treweek

Ms Heather Warton  
Director Coastal Assessments  
Major Project Assessments  
GPO Box 39  
SYDNEY NSW 2001

Attention Stuart Withington



rec am  
22/10/08  
PO  
Mawc  
Schofield

Dear Ms Warton,

**MP06\_0165 Proposed residential development, Manyana**

I refer to your letter requesting comments on the adequacy of the draft Environmental Assessment (EA) for the above proposal, received by the Department of Environment and Climate Change (DECC) on 24 September 2008.

DECC has reviewed the adequacy of the draft EA, with respect to impacts on threatened species only. Specifically, DECC has identified that the Endangered Ecological Community (EEC) of Swamp Sclerophyll Forest extends further into the northern part of the development site than is represented in the EA and its attachments.

ATTACHMENT A to this letter provides DECC's detailed comments and an illustration with respect to the boundaries of the EEC and location of parts of the development proposal.

Accordingly, DECC recommends that the EA should be revised to consider options for the proposal that avoid impact on the EEC (consistent with the 2005 *Draft Guidelines for Assessment of Impacts on Threatened Species Under Part 3A*). Where the proponent considers that the impact cannot be avoided, the EA should describe how impacts can be mitigated or offset, to achieve a "maintain or improve" outcome. With respect to offsets, DECC refers both the proponent and the Department of Planning to the "Principles for the use of biodiversity offsets in NSW" in Appendix II of the *Guidelines for Biodiversity Certification of Environmental Planning Instruments: Working Draft* (DECC 2007; ATTACHMENT B to this letter).

If you have any further questions with respect to these matters, please contact Allison Treweek on (02) 6229 7002.

Yours sincerely

A handwritten signature in blue ink, appearing to read "David Winfield".

14/10/08

**DAVID WINFIELD**  
**Head of Operations - South East Region**  
**Environment Protection and Regulation**

The Department of Environment and Conservation NSW is now known as  
the Department of Environment and Climate Change NSW

PO Box 622, Queanbeyan NSW 2620  
11 Farrer Place, Queanbeyan NSW  
Tel: (02) 6229 7002 Fax: (02) 6229 7006  
ABN 30 841 387 271  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

Department of **Environment and Conservation** NSW





**ATTACHMENT A – DECC letter to DoP adequacy assessment MP06\_0165**

**EEC BOUNDARIES AND ISSUES FOR PART 3A PROPOSAL MP06\_0165 AT MANYANA**



Yellow line: approximate EEC boundary as mapped by DECC (differs to that mapped by Kevin Mills Associates (KMA))

Blue line: approximate EEC boundary as mapped by KMA (DECC concurs with this boundary)

MAP LABEL	COMMENTS
A	<ul style="list-style-type: none"> <li>• Proposed artificial wetland lies wholly within SSF EEC – not appropriate if can be avoided</li> <li>• Proposed lots 115 and 116 do not provide for any buffer to the SSF EEC and their APZs are likely to encroach into it.</li> </ul>
B	<ul style="list-style-type: none"> <li>• This is not SSF EEC probably due to the presence of Banksia integrifolia. It may qualify as Bangalay Sand Forest EEC though.</li> <li>• Proposed lots 101, 102 and 103 do not provide for any buffer to the SSF EEC and their APZs are likely to encroach into it.</li> </ul>
C	<ul style="list-style-type: none"> <li>• There is a sharp transition from BSF EEC to non-EEC due to the abrupt change in substrate from beach sand to red clay.</li> <li>• The zone boundary easily allows for any minor variation in the EEC boundary to be protected.</li> <li>• It may be possible to extend the subdivision into the polygon labelled 4 by KMA if Council were to accept a rezoning in order to compensate for the loss of developable land elsewhere on the site, especially in the north.</li> </ul>
D	<ul style="list-style-type: none"> <li>• No threatened species issues in this area.</li> </ul>
E	<ul style="list-style-type: none"> <li>• Proposed lots 118, 119 and 120 encroach into the SSF EEC and their APZs are likely to encroach further into it..</li> <li>• Proposed lots 117 and 121 do not provide for any buffer to the SSF EEC and their APZs are likely to encroach into it.</li> </ul>
F	<ul style="list-style-type: none"> <li>• The vegetation mapping is incorrect and the SSF EEC extends to the northern and western boundaries as per the yellow line.</li> </ul>
G	<ul style="list-style-type: none"> <li>• The vegetation mapping is incorrect and the SSF EEC extends to the yellow line.</li> </ul>

## Appendix II: Principles for the use of biodiversity offsets in NSW

**A biodiversity offset is one or more appropriate actions that are put in place to counterbalance specific impacts on biodiversity. Appropriate actions are long-term management activities to improve biodiversity conservation. This can include legal protection of land to ensure security of management actions and remove threats.**

The following principles are a guide for DECC when it is negotiating and developing biodiversity offsets to achieve conservation outcomes in situations where a loss of biodiversity is expected. These principles are relevant to areas without an existing biodiversity offsets program. The principles do not apply where there is legislation defining requirements for biodiversity offsets (e.g. under the *Native Vegetation Act 2003*).

The principles are based on ideas/information from a number of publications (NSW Government 2002; NSW Government 2005) and expert knowledge.

The appropriateness of biodiversity offsets will need to be determined in relation to the circumstances and the standard required by legislation for which the offset is proposed. For example, to obtain biodiversity certification under the *Threatened Species Conservation Act 1995*, the required standard is to improve or maintain biodiversity values. Clearing or development proposed in certain areas, such as high conservation significance communities in good condition, will not meet the improve or maintain requirements under this Act.

### **1. Impacts must be avoided first by using prevention and mitigation measures.**

Offsets are then used to address remaining impacts. This may include modifying the proposal to avoid an area of biodiversity value or putting in place measures to prevent offsite impacts.

### **2. All regulatory requirements must be met.**

Offsets cannot be used to satisfy approvals or assessments under other legislation, e.g. assessment requirements for Aboriginal heritage sites, pollution or other environmental impacts (unless specifically provided for by legislation or additional approvals).

### **3. Offsets must never reward ongoing poor performance.**

Offset schemes should not encourage landholders to deliberately degrade or mismanage offset areas in order to increase the value from the offset.

### **4. Offsets will complement other government programs.**

A range of tools is required to achieve the NSW Government's conservation objectives, including the establishment and management of new national parks, nature reserves, state conservation areas and regional parks and incentives for private landholders.

### **5. Offsets must be underpinned by sound ecological principles.**

They must:

- include the consideration of structure, function and compositional elements of biodiversity, including threatened species
- enhance biodiversity at a range of scales
- consider the conservation status of ecological communities

- ensure the long-term viability and functionality of biodiversity.

Biodiversity management actions, such as enhancement of existing habitat and securing and managing land of conservation value for biodiversity, can be suitable offsets. Reconstruction of ecological communities involves high risks and uncertainties for biodiversity outcomes and is generally less preferable than other management strategies, such as enhancing existing habitat.

**6. Offsets should aim to result in a net improvement in biodiversity over time.**

Enhancement of biodiversity in offset areas should be equal to or greater than the loss in biodiversity from the impact site.

Setting aside areas for biodiversity conservation without additional management or increased security is generally not sufficient to offset against the loss of biodiversity. Factors to consider include protection of existing biodiversity (removal of threats), time-lag effects, and the uncertainties and risks associated with actions such as revegetation.

Offsets may include enhancing habitat, reconstructing habitat in strategic areas to link areas of conservation value, or increasing buffer zones around areas of conservation value and removal of threats by conservation agreements or reservation.

**7. Offsets must be enduring – they must offset the impact of the development for the period that the impact occurs.**

As impacts on biodiversity are likely to be permanent, the offset should also be permanent and secured by a conservation agreement or reservation and management for biodiversity. Where land is donated to a public authority or a private conservation organisation and managed as a biodiversity offset, it should be accompanied by resources for its management. Offsetting should only proceed if an appropriate legal mechanism or instrument is used to secure the required actions.

**8. Offsets should be agreed prior to the impact occurring.**

Offsets should minimise ecological risks from time-lags. The feasibility and in-principle agreements to the necessary offset actions should be demonstrated prior to the approval of the impact. Legal commitments to the offset actions should be entered into prior to the commencement of works under approval.

**9. Offsets must be quantifiable – the impacts and benefits must be reliably estimated.**

Offsets should be based on quantitative assessment of the loss in biodiversity from the clearing or other development and the gain in biodiversity from the offset. The methodology must be based on the best available science, be reliable and used for calculating both the loss from the development and the gain from the offset. The methodology should include:

- the area of impact
- the types of ecological communities and habitat/species affected
- connectivity with other areas of habitat/corridors
- the condition of habitat
- the conservation status and/or scarcity/rarity of ecological communities
- management actions
- level of security afforded to the offset site.

The best available information/data should be used when assessing impacts of biodiversity loss and gains from offsets. Offsets will be of greater value where:

- they protect land with high conservation significance

- management actions have greater benefits for biodiversity
- the offset areas are not isolated or fragmented
- the management for biodiversity is in perpetuity (e.g. secured through a conservation agreement).

Management actions must be deliverable and enforceable.

**10. Offsets must be targeted.**

They must offset impacts on the basis of like-for-like or better conservation outcome. Offsets should be targeted according to biodiversity priorities in the area, based on the conservation status of the ecological community, the presence of threatened species or their habitat, connectivity and the potential to enhance condition by management actions and the removal of threats. Only ecological communities that are equal or greater in conservation status to the type of ecological community lost can be used for offsets. One type of environmental benefit cannot be traded for another: for example, biodiversity offsets may also result in improvements in water quality or salinity but these benefits do not reduce the biodiversity offset requirements.

**11. Offsets must be located appropriately.**

Wherever possible, offsets should be located in areas that have the same or similar ecological characteristics as the area affected by the development.

**12. Offsets must be supplementary.**

They must be beyond existing requirements and not already funded under another scheme. Areas that have received incentive funds cannot be used for offsets. Existing protected areas on private land cannot be used for offsets unless additional security or management actions are implemented. Areas already managed by the government, such as national parks, flora reserves and public open space cannot be used as offsets.

**13. Offsets and their actions must be enforceable through development consent conditions, licence conditions, conservation agreements or a contract.**

Offsets must be audited to ensure that the actions have been carried out, and monitored to determine that the actions are leading to positive biodiversity outcomes.