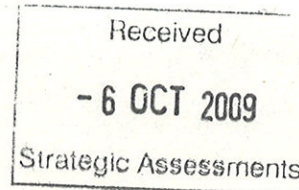


Your reference: Caitlin Bennett
Our reference: DOC09/44514 / FIL07/9227 Pt 3A
Contact: Emma Coombs, (02) 4908 6831



Department of Planning
Strategic Assessments
GPO Box 39
SYDNEY NSW 2001

Attention: Shivesh Singh

Dear Mr Singh

**EXHIBITION OF REVISED PREFERRED PROJECT REPORT FOR THE PROPOSED
WARNER INDUSTRIAL PARK**

Reference is made to the above application providing the Department of Environment, Climate Change and Water (DECCW) an opportunity to make a written submission on the proposal. Reference is also made to the report entitled "Preferred Project Report – Warner Industrial Park Concept Plan and Project Application, Precinct 14 WEZ, Sparks Rd and Hue Hue Rd, Warnervale (Revision A – May 2009)".

DECCW notes that, despite its previous comments to the Department of Planning (DoP) with regard to the provision of infrastructure within the proposed biodiversity offset lands, this aspect of the proposal remains unchanged. DECCW is of the firm opinion that these aspects of the proposal, if approved, may compromise the capacity of the Minister for Climate Change and the Environment to confer biodiversity certification on the Wyong Employment Zone (WEZ).

Should this proposal to install infrastructure within conservation lands be approved, DECCW advises that the proponent should be required to provide an alternate means of offsetting the biodiversity loss on the Warner Industrial Park (WIP) lands, to the satisfaction of DECCW, prior to the commencement of any works or development.

Further detailed comments in relation to the above matter as well as other issues are provided in Attachment 1.

Thank you for the opportunity to comment, if you require any further information regarding this matter please contact Emma Coombs on (02) 49086831.

Yours sincerely

P. Jamieson 28-9-09

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Department of **Environment and Climate Change** NSW



Attachment 1 – Comments on Preferred Project Report (Revision A – May 2009)

1. Biodiversity Conservation

DECCW has referred to the SEPP (Major Projects) 2005 (Amendment No. 21) and acknowledges that the E2 Environmental Conservation zoning allows with consent the placement of 'environmental facilities; environmental protection works; flood mitigation works; roads; waterbodies (artificial)' within the E2 conservation zoning. However, as advised on a number of occasions throughout the application process, DECCW does not support the provision of stormwater storage and/or other infrastructure within the conservation zones. Placement of infrastructure within conservation zones reduces the conservation outcomes for these lands and compromises the Minister's ability to confer biodiversity certification on the Wyong Employment Zone (WEZ).

The original BioCertification assessment concluded that WEZ was very close to achieving an 'improve or maintain' outcome, with a key determinant being the amount of works that would go into improving low condition vegetation within the WEZ. The final conclusion was that the proposal may achieve a 'maintain' outcome for biodiversity but not achieve any 'improvement' in biodiversity. This conclusion was based on all E2 zoned land identified in the LEP being conserved and managed.

This proposal however compromises the ability of the WEZ to achieve a 'maintain or improve' outcome as the area assessed for BioCertification is now being heavily impacted upon by stormwater storage as well as other infrastructure as detailed in the Concept Plan and associated engineering drawings provided in Appendix 1 to the Preferred Project Report (Revision A – May 2009). Infrastructure within these areas includes large stormwater basins, a 4m proposed maintenance track around the stormwater detention basins, proposed sewer mains and rising mains as well as Telstra cables. This infrastructure will reduce the size of the area available for conservation, will require ongoing maintenance, may require additional clearing and increase fragmentation of important habitat, all of which will inhibit the capacity of these areas to contribute to the biodiversity and habitat values of the conservation zoned lands.

It is estimated that the construction of the stormwater detention basins alone would reduce the conservation area by approximately 20%. The width of the vegetated corridor adjacent to the F3 Freeway and along Buttonderry Creek is also significantly reduced to accommodate this infrastructure.

It is further noted that there is a bridged crossing proposed across Buttonderry Creek and an associated roadway through the E2 zoned lands and mapped Endangered Ecological Community. Once again, whilst permissible with consent, DECCW strongly opposes the alignment of this road through the conservation lands due to fragmentation and environmental impacts on these lands.

In accordance with our previous correspondence, DECCW recommends that all infrastructure is relocated out of the E2 zone.

DECCW also notes the 'proposed open drain' alignment adjacent proposed lots 112 – 118 and 121, and advises that this area should be revegetated to reflect a natural watercourse feature of the site. This area has been zoned E2 Environmental Conservation and it should be treated as such. Landscaping within this area should be in accordance with the requirements of the Rural Fire Service (RFS) (i.e. landscaping in accordance with the principles of Appendix 5 of Planning for Bushfire Protection, 2006) and consist of native mesophyllic plant species which would not significantly contribute to fuel loadings and may retard fire activities in low intensity fires. This in turn may reduce the need for an asset protection zone provided to the above mentioned proposed lots; however the provision of an APZ would still need to be considered in accordance with the requirements of the RFS.

In addition, DECCW notes the original proposal for the much larger WEZ involved legal mechanisms to levy developments with a view to acquiring and managing the nominated offset lands. With the Warner Industrial Park now essentially removed from this WEZ process DoP needs to ensure suitable alternative arrangements are in place for this development to guarantee the level of land acquisition and management envisaged during the BioCertification negotiations for WEZ will still be able to be achieved.

2. Statement of Commitments

DECCW has undertaken a review of the proponents Statement of Commitments and notes the following:

Subject No. 7.0 - Biodiversity and Environmental Management requires the provision of an Environmental Management Plan (EMP) for the Buttoderry Creek and the Environmental Corridor adjoining the F3. This plan is proposed to address a number of items including "*planting and maintenance of water quality and detention basins*". Whilst a plan should be prepared to manage this issue, DECCW advises that it should be removed from the EMP for the conservation area as it is recommended that this infrastructure be relocated outside of the E2 Environmental Conservation zone.

Subject No. 11.0 Bushfire Protection requires "*the creation of a section 88B instrument to provide unobstructive pedestrian access to the rear of proposed lots 101 – 110*". DECCW is concerned with the wording of this commitment as it leaves the proponent with the option of creating an 88B easement over the adjoining Public Reserve (which contains remnant vegetation) and placing the pedestrian access required by the RFS within this area, thus requiring clearing of vegetation within the Public Reserve. DECCW suggests that the wording of this commitment be altered to make it clear that the section 88B instrument is to be created within proposed lots 101 – 110, and not over the adjoining Public Reserve.

3. Drainage and Flooding

On 18 November DECC provided comments regarding flooding considerations to DoP. This correspondence advised that the Flood Modelling undertaken by DHI Water & Environment Pty Ltd contained in Appendices 17 & 18 had been reviewed by DECC and it was considered that the assessed flood behaviour and flood impacts of the proposed development generally satisfy the Director General's Requirements. However, the presentation of the information did not clearly identify the extent of flooding and the high hazard areas and required further clarification. DECCW has undertaken a review of Appendix 7 of the Revised Preferred Project Report (May 2009) and advises that the issues raised in our previous correspondence have been adequately addressed.

4. Aboriginal Cultural Heritage

DECCW provides the following proposed conditions of approval for aboriginal cultural heritage values

1. In the event that human remains are located during the project, a protocol to halt all works in the immediate area should be followed to prevent any further impacts to the find or finds. The local police and DECCW are to be notified. If the remains are found to be of Aboriginal origin and the Police consider the site is not an investigation site for criminal activities, DECCW is to be contacted and notified of the situation. Works are not to resume in the designated area until approval in writing is obtained from the Police and DECCW.
2. If Aboriginal cultural objects are uncovered due to the development activities, all works must halt in the immediate area to prevent any further impacts to the find or finds. A suitably qualified archaeologist and Aboriginal community representatives must be

contacted to determine the significance of the find(s). The site is to be registered in DECCW's Aboriginal Heritage Information Management System (AHIMS) and the management outcome for the site included in the information provided to the AHIMS. AHIMS contact details: Phone: (02) 9585 6470, address: Level 6, 43 Bridge Street, Hurstville, NSW, 2220, e-mail: ahims@environment.nsw.gov.au. It is also recommended that the Aboriginal community representatives are consulted in developing and implementing management strategies for all sites, with all information required for informed consent being given to the representatives for this purpose.

3. All reasonable efforts must be made to avoid impacts to Aboriginal Cultural Heritage values at all stages of the development works. If impacts are unavoidable, mitigation measures are to be negotiated with the Aboriginal community and DECCW.
4. The applicant must continue to consult with and involve Aboriginal representatives for the project, in the ongoing management of the Aboriginal Cultural Heritage values.