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Senders ref: SSD-8859

Ms Ania Dorocinska
Planning and Assessment Group
Department of Planning, Industry and Environment
4 Parramatta Square, 12 Darcy Street
PARRAMATTA NSW 2150

Dear Ms Dorocinska

Subject: EES comments on Amended EIS and Response to Submissions for Elizabeth Drive subdivision – SSD-8859 – 1111-1116 Elizabeth Drive Cecil Park

Thank you for your email of 23 September 2020 requesting advice on the amended Environmental Impact Statement (EIS) and Response to Submissions (RtS) for this State Significant Development.

The Environment, Energy and Science Group (EES) has reviewed the amended EIS and RtS and provides its recommendations and comments at Attachment A.

Please note that from 1 July 2020, Aboriginal cultural heritage (ACH) regulation, including advice on major projects, is now managed by the Heritage NSW. The new contact for the ACH regulation team is heritagemailbox@environment.nsw.gov.au.

If you have any queries regarding this matter, please do not hesitate to contact Janne Grose, Senior Conservation Planning Officer on 02 8837 6017 or at janne.grose@environment.nsw.gov.au

Yours sincerely

A handwritten signature in black ink that reads 'S. Harrison'.

09/11/20

Susan Harrison

**Senior Team Leader Planning
Greater Sydney Branch
Environment, Energy and Science**

Subject: EES comments on Amended EIS and Response to Submissions for Elizabeth Drive subdivision – SSD-8859 – 1111-1116 Elizabeth Drive Cecil Park

The Environment, Energy and Science Group (EES) has reviewed the following documents:

- Response to Submissions Report (RtS) – 14 August 2020
- Amended Environmental Impact Statement (EIS) – 22 September 2020
- Attachment D - Biodiversity Development Assessment Report (BDAR) - August 2020
- Appendix 8 – Urban Design report
- Appendix 16 – Flooding Review – 9 September 2020

and provides its comments below.

Flood

EES comments in its submission dated 18 March 2019 on the original application have not been addressed in the RtS.

The site boundary and lot layout have been changed significantly since the original application. However, the information provided on flooding still does not address the SEARs and demonstrates insufficient consideration of flooding in general. The original report on flooding by GHD (2126819-REP-1111-1141 Elizabeth Drive DA Stage Stormwater, Flooding and Dams) makes no reference to the SEARs, and neither does the letter from GHD (1141 Elizabeth Drive DA – Flooding Matters) attached to the revised EIS.

As per the SEARs, the applicant needs to consider flood risk on site for the full range of floods, including those larger than the 1% annual exceedance probability event, up to and including the probable maximum flood. The applicant has not presented any information on or consideration of extreme events. The council flood study mapping (Rural Area Flood Study Ropes, Reedy & Eastern Creeks, BMT WBM, 2013) indicates that the site could be isolated by flood water in extreme events. Consideration needs to be given to flood emergency response. For example, no attempt has been made to detail how the development would ensure the safety of persons on-site, which was explicitly itemised in the SEARs.

The applicant has not provided the required Flood Impact Risk Assessment for the updated proposal. It is proposed to fill parts of the subject site. There is a risk that this development would cause an unacceptable increase to flood risk on surrounding and downstream properties. Consideration needs to be given to the timing of construction of the Wallgrove Road realignment and the subject development and that these two proposals are independent of each other. The subject development may be constructed before the Wallgrove Road realignment, which may also have impacts not considered as part of EES advice.

Limited information on the Wallgrove Road works has been presented for consideration as part of this application and the details may not yet be finalised. The letter from GHD asserts that the future Wallgrove Road would 'likely' have 1% annual exceedance probability flood immunity and protect the development from flooding. No evidence has been provided to support this assertion and EES experience indicates it may not be accurate. It would be prudent to assess the subject development independently without relying on flood protection from an external source, especially when its future likelihood is unclear.

EES recommends the applicant liaise with Transport for NSW to confirm design details of the realignment of Wallgrove Road and its timeframe and include this information in an updated flooding assessment. If this information is not available, it is recommended the proposal disregard the road realignment in consideration of flooding matters. Otherwise, it would be prudent to consider the development both independent of, and together with the road realignment for the purposes of floodplain risk management.

A revised civil design has been prepared by Martens Consulting Engineers for the updated EIS. The revised civil design has not been referred to in the letter on flooding from GHD and it is unclear whether it has been taken into consideration for the assertions made therein.

A Flood Impact Risk Assessment needs to be prepared, having regard to the revised civil design and EES comments dated 18 March 2019. If information is available on the realignment of Wallgrove Road, two scenarios should be investigated: with and without the road realignment.

Biodiversity

Digital shape files

This review was carried out without digital shape files being provided to EES. As per Table 25 of the BAM, digital shape files for all maps and spatial data need to be provided.

Project footprint and assessment of impacts

The project footprint shown in Figure 5-1 of the BDAR does not consider all structures associated with the proposed on-site detention basin in Lot 12, for example see page 55 of the Amended EIS. As such, in accordance with Table 25 of the BAM, the operational and construction footprints need to be included in the BDAR, and the assessment of all impacts must be carried out in accordance with section 9 of the BAM.

Mapping native vegetation extent

An area within the Cumberland Plain Woodland (CPW) has been mapped as “Buildings, infrastructure and dumped fill” (Figure 2-1) and has been identified as not requiring assessment (page 54) or offsets (Figure 6-1). However, recent aerial imagery (Nearmap dated Friday October 2 2020) shows no obvious differences between this area and the surrounding vegetation and section 5.1.1.3 of the BAM states “The native vegetation extent on the subject land includes all areas of native vegetation including native ground cover and the canopy area of trees.” As such, justification for this mapping needs to be provided in accordance with section 5.1.1.7 of the BAM, and section 10.4.1.1 may also need to be revisited.

Targeted surveys

Figure 2-1 contains the following “Note: habitat assessments, active searches for the Cumberland Plain Land Snail and other ground dwelling fauna, visual inspection of potential roost/nest trees and systematic traverses for threatened plants were conducted across the entire study area”. However, no GPS tracks are mapped for this and no field data sheets are included in an appendix. As such, sections 6.5.1.3 and 6.5.1.5 of the BAM need to be applied.

As part of the M12 proposal (which has amendments to the original EIS currently on exhibition) one live Cumberland Plain Land Snail (CPLS) was found during targeted surveys in January 2020, approximately 80m from the north eastern boundary of the subject site, in CPW that is contiguous with the CPW occurring in the study area and subject site (see Figure 4-3 of *M12 Motorway Amendment Report - Appendix A Biodiversity supplementary technical report October 2020*). As such, step 4 of section 6.4 of the BAM needs to be revisited, bearing in mind:

- that a targeted survey can confirm if a species credit species is present or is likely to use suitable habitat on the subject land and
- for the supplementary biodiversity report for the M12 proposal, EES does not understand why all of the native vegetation on Lot 2 DP 2954 has not been included as part of the CPLS polygon; the vegetation mapped in a higher condition (Moderate/Good – Medium) has been excluded from the polygon, but the vegetation mapped as Moderate/Good – Poor has been included.

Species polygon for Southern Myotis

The polygon for Southern Myotis is incorrect. This is because the dam located near the junction of Cecil Road and Elizabeth Drive (on Lots 1 and 2 DP236527) is within 200m of the subject land but was not used to determine the species polygon; only the water body in the north west of the study area was (see page 56 of the BDAR). Bionet states “Use aerial imagery to map waterbodies with pools/stretches 3m or wider on or within 200m of the subject land. Species polygon boundaries should align with PCTs on the subject land to which the species is associated that are within 200m of waterbodies mapped”. As such, the species polygon for Southern Myotis needs to be determined in relation to both waterbodies and the credit obligation recalculated.

Avoiding and minimising impacts

No effort has been demonstrated to avoid and minimise impacts on biodiversity values in the vegetated areas along the north eastern and south eastern boundaries of the subject site. This is important because Figure 1-2 ‘Construction footprints of the amended project and the project as described in the EIS’ in the *M12 Motorway Amendment Report - Appendix A Biodiversity supplementary technical report October 2020* shows the proposed retention of vegetation along these boundaries. As such, section 8.1 of the BAM needs to be applied.

Mitigation measures

Mitigation measures need to be included for the removal of habitat associated with prescribed impacts.

A mitigation measure on page 45 of the BDAR states “The construction contractor is to contact the Project ecologist for advice if any unexpected fauna are found during the construction period (i.e. following clearing of native vegetation when the Project ecologist is no longer on site).” (EES emphasis). The timing stated in the BDAR for this mitigation measure is ‘during clearing’. EES recommends the timing should be amended to ‘post clearing’ and not “during clearing” as the mitigation relates to “following clearing of native vegetation” (see page 45).

The mitigation measure to relocate significant habitat features to adjacent areas of vegetation (see page 44 of the BDAR) should only be done in areas that will not form part of the construction footprint for the M12 i.e. they should be placed areas where the vegetation will be retained for the long term.

Recommended Conditions of Consent

Pre-clearance surveys

EES recommends a condition of consent is included for surveys to be undertaken by a suitably qualified ecologist prior to any clearing of vegetation commencing on the site to mitigate potential impacts on native fauna.

Any resident native fauna found during the surveys should be appropriately captured and relocated by a licensed wildlife carer to appropriate nearby habitat locations, particularly as the BDAR notes the tree hollows on site may provide roosting, refuge and breeding habitat for a range of native species including micro bats, arboreal species (e.g. possums) and birds (parrots, lorikeets) and a resident Brushtail Possum with dependant young was observed utilising a hollow within the subject site during nocturnal surveys (section 3.3, page 30). The relocation of native fauna which use the tree hollows on site for habitat may need compensatory tree hollows provided prior to being released.

Seed collection from native plants to be removed

EES recommends seed from native plants to be removed within the project footprint is collected prior to any site clearing and used in plant propagation for landscaping/ planting on the site. In order to avoid local provenance species not being available at the required planting time, EES recommends a condition is included that the proponent must commence sourcing local native provenance plant species particularly trees and/or growing local provenance trees as soon as possible, so the trees to be planted are advanced in size to improve the urban tree canopy and

local biodiversity. The proponent should seek advice from a qualified bush regenerator and condition of consent is included to this effect.

- ***The proponent must commence collecting local native seed and growing local provenance plant species particularly trees as soon as possible, so the trees to be planted are advanced in size to assist improve the urban tree canopy and local biodiversity***

Translocation of juvenile native plants

EES recommends any juvenile native plants that are to be removed as part of this development are translocated to the area on site where the trees are to be retained and/or planted in the site's landscape areas to conserve the local genetic diversity.

The plants should be relocated when plant growth conditions are ideal to give the native plants the best possible opportunity to establish before the next summer. The translocated plants should be maintained until established (i.e. weeding and watering).

The following condition of consent should be included:

- ***prior to any earthworks and clearing of native vegetation commencing on the site, juvenile native plants shall be removed and planted where trees are to be retained on the site and/or used in the site's landscape areas to conserve the local genetic diversity.***

Reuse of removed trees

EES recommends the SSD salvages and reuses native trees that are removed including tree hollows, tree trunks (greater than approximately 25-30cm in diameter and 3m in length) and root balls and these are used by the SSD in the landscape areas to enhance habitat.

As the SSD is unlikely to be able to reuse all of the 150 trees proposed to be removed, EES recommends a condition of consent is included that the proponent consults with the local community restoration/rehabilitation groups, Landcare groups, surrounding reserve managers including the National Parks and Wildlife Service (NPWS) and Council etc prior to any clearing commencing to determine if the removed trees can be re-used by others in habitat enhancement and rehabilitation work. This detail including consultation with the community groups and their responses should be documented in the Construction Environmental Management Plan (CEMP).

It is recommended the project includes following condition:

- ***The Proponent must identify where it is practicable to reuse any of the native trees that are to be removed as part of this development, including tree hollows and tree trunks (greater than 25-30 centimetres in diameter and three metres in length), and root balls to enhance habitat. Where the removed native trees are not able to be entirely re-used on the site, the proponent must consult with local community restoration/rehabilitation groups, Landcare groups, surrounding reserve managers including the National Parks and Wildlife Service (NPWS) and Council prior to removing any native trees to determine if the removed trees can be reused in habitat enhancement and rehabilitation work. This detail including consultation with the community groups and their responses must be documented in the CEMP***

Site landscaping

The amended EIS states "landscaping would be undertaken on the site as part of the Proposal and would be included on all boundaries of the Proposal Site (page 24). It indicates the landscape design for the Proposal aims to integrate the site into the broader environment with the following:

- use of species that are local to the area, hardy and easy to maintain
- use of trees within the site to provide a uniform canopy cover within vegetated areas
- use of local species as understory planting to support and enhance local habitat values
- use (where reasonable and feasible) of seeds collected within the local area for planting to reinforce the genetic integrity of the region (page 25).

The Urban Design report includes a limited plant species list comprising three tree species (Grey Box, Luscious Water Gum and Forest Red Gum) and seven species of grass and rushes (section

6.7, page 24). EES recommends any landscaping/planting at the site uses a diversity of local provenance native species from the relevant native vegetation communities that occur on the site rather than use exotic species or non-local native species. It is recommended the proponent obtains advice from a suitably qualified bush regenerator on local provenance native plant species that can be planted, and a condition of consent is included to this effect.

The RtS notes the amended application proposes to plant 26 trees within the proposed road reserve (page 5). EES recommends local native provenance tree species are used and these are advanced in size to assist improve the urban tree canopy and local biodiversity.

EES recommends the following conditions of consent are included:

- ***Any planting for the project shall use a diversity of local provenance native trees, shrubs and groundcover species (rather than exotic species or non-local native species) from the relevant native vegetation communities that occurs on the site***
- ***Tree planting shall use advanced and established trees with a minimum plant container pot size of 100 litres, or greater for tree species which are commercially available. Other tree species which are not commercially available may be sourced as juvenile sized trees or pre-grown from provenance seed.***
- ***Enough area/space is provided to allow the trees to grow to maturity***
- ***A Landscape Plan is to be prepared and implemented by an appropriately qualified bush regenerator and include details on:***
 - a. the location of landscape areas and tree retention***
 - b. seed collection – the location of all native seed sources should be identified***
 - c. the translocation of existing juvenile native plants***
 - d. the native vegetation communities that occur on the site***
 - e. the plan demonstrates that the plant species consist of local provenance and provides a list of local provenance species to be planted***
 - f. the quantity and location of plantings***
 - g. the pot size of the trees to be planted***
 - h. the area/space required to allow the planted trees to grow to maturity***
 - i. plant maintenance regime. The planted vegetation must be regularly maintained and watered for 12 months following planting. Should any plant loss occur during the maintenance period the plants should be replaced by the same plant species.***

End of Submission