

28 July 2022

Our ref: 22SYD 1523

Department of Agriculture, Water and Environment
BPO Box 858, Canberra
ACT 2601

Attention: EPBC Referrals

Dear Caitlin,

Request for a s156A Variation to EPBC Eastern Creek Business Hub

I refer to the meeting conducted on 29 April 2022 between Eco Logical Australia Pty Ltd (ELA), Frasers Property and Department of Agriculture, Water and Environment (Post Approvals) regarding the intention to request a s156a variation to EPBC.

Specifically, ELA proposed to provide the following information in the variation request which was agreed to in the meeting:

- Project background
- Overview of proposed variation
- Overview of MNES present, field survey completed and anticipated impacts
- Proposed offsets

To facilitate the assessment of the proposed variation, DAWE requested that the variation request ensure that the requirements of Division 5.4 of the EPBC Act are adequately addressed.

Project background

The proposed action was referred to the then Department of Environment and Energy (DotEE) on 22 July 2020. The Department determined that the action was a controlled action on 21 August 2020 and further assessment would be completed using the current Bilateral Agreement between NSW State Government and the Commonwealth. The controlling provisions were threatened species and communities, with a significant impact to Cumberland Shale Plains Woodland and Shale-Gravel Transition Forest determined. The referral described the proposed action as:

Frasers Property Retail Holdings Pty Limited (Frasers Property) are proposing the action. The proposed action relates to Lot 1 Section B DP8681, Lots 1 and 2 DP1258787, Lots 3 and 4 Section B DP8681 and Lot 3 DP830836 of the Eastern Creek Quarter site. The lot is proposed to be developed for a retail factory outlet centre with supporting food and beverage tenancies, and ancillary

entertainment and recreation usages (similar to that proposed on Stages 1 and 2). This involves the removal of a patch of Cumberland Plain Woodland of approximately 0.73 ha. The remainder of the footprint would affect exotic pasture grass and cleared land.

Proposed variation

The proposed variation is to support the upgrade of the Church Street and Rooty Hill Road South intersection which is considered necessary to facilitate movement of vehicle and pedestrian traffic to the proposed business hub. Substantial consultation with TfNSW and Blacktown City Council was completed and numerous routes explored in an attempt to meet TfNSW and Council requirements whilst minimising impacts to biodiversity values. Following consultation, it was determined that upgrades to construct a four-way intersection would be required.

Additional survey for MNES was completed in the proposed road upgrade footprint. Surveys included vegetation validation, threatened flora searches and threatened fauna searches. No additional MNES were identified in the footprint. Section 3.3 of the BDAR (ELA 2022) provides detailed descriptions of survey effort.

To facilitate the upgrade, additional impacts to 0.44 ha of Cumberland Shale Plains Woodland and Shale Gravel Transition Forest would occur (Figure 1 and Figure 2). The impacts will be permanent. The proposed variation would also increase impacts by 0.39 ha to *Pteropus poliocephalus* (grey-headed Flying-fox) foraging habitat. No camps would be affected.

Attempts to avoid and minimise impacts to MNES

Substantial consultation with TfNSW and Blacktown City Council (Council has been completed to determine the most appropriate intersection for Church Street and Rooty Hill Road South.

Numerous routes were explored in an attempt to meet TfNSW and Council requirements whilst minimising impacts to biodiversity values. The Frasers project team recommended a 3-way intersection positioned to the south of St Agnes Avenue which minimises the biodiversity impact of the intersection by minimising the encroachment of the intersection into PCT 849 on the northern side of Church Street. This option was proposed as part of the concept plan lodgement in December 2020. However, following review by both Council and TfNSW and ongoing consultation, while the intersection design is supported in principle, both authorities have asked Frasers to pursue a 4-way intersection instead.

The DPE has also requested the 4 way intersection be pursued to minimise impacts to St Agnes Avenue and Minchinbury Street and to provide a long-term safe, efficient, and equitable access arrangement for the community and the broader road network. Please refer to the DPE request for additional information, dated 22 February 2022:

“The Department recommends that you explore alternative options/concept designs for signalisation of the Church Street and Rooty Hill Road South intersection to minimise impacts to St Agnes Avenue and Minchinbury Street. This should include options to provide a 4-way intersection which aligns with St Agnes Avenue to provide a long-term safe, efficient, and equitable access arrangement for the community and the broader road network. It should also seek to minimise the potential environmental and heritage impacts on The Rooty Hill.”

Please also refer to the TfNSW RFI letter dated 28 March 2022, and BCC letter dated 31 March 2022. To summarise:

- While TfNSW accept that a 3-way intersection could function, the design restricts access to St Agnes Avenue and hence a 4 way intersection is preferred; and
- BCC no longer support the 3-way intersection.

In terms of existing site constraints (mainly services and structures along Rooty Hill Road South and Church Street), the following has been carefully considered:

- there are existing driveways along the frontage of Rooty Hill Road South and St Agnes Avenue intersection. These cannot be moved and as such the current kerb return, pram ramp and footpath design has had to accommodate these existing features.
- the proposed pedestrian crossing on St Agnes Avenue can accommodate a 3m width, but not the preferred 3.5m width as this would require widening into privately owned land and boundary adjustments which is not an acceptable solution.
- there is an existing power pole that is currently on the southern corner of St Agnes Avenue. The proposed kerb return has allowed for this to be kept.
- existing stormwater lintel pit to the south of St Agnes Avenue is to remain and this sets the position of the proposed pedestrian crossing at this location.

Engineering solutions / design iterations were explored in attempt to minimise impact on biodiversity. The design for the 4-way intersection has carefully considered the following key requirements:

- Requirement of aligning Church Street with St Agnes Avenue in the 4-way intersection
- Traffic design requirements for the intersection (including turning lanes, swept paths, pedestrian crossing etc.) to ensure a safe and efficient traffic outcome
- BCC's requirement for convenient vehicular access via Church Street to the Sporting Field (Helen Beck Field)
- Residents' desire for convenient vehicular and pedestrian access to Eastern Creek Quarter development (based on feedback from community consultation campaign undertaken during February – March 2022).

Balancing above requirements with attempt to minimise the extent of land needed for the intersection design, the intersection designer endeavoured to keep the curve radii (of Church Street) as tight as possible, to quickly connect back to the existing Church Street alignment and hence minimise the impact to PCT 849. Following design re-iterations, the extent of land required in the adjacent BCC land has been reduced from nearly 3 ha to 2.1 ha, while maintaining the safety and connectivity requirements listed above.

Proposed offsets

The proposed variation would increase impacts to Cumberland Shale Plains Woodland and Shale Gravel Transition Forest and Grey-headed Flying-fox habitat by 0.44 ha (Table 1). The Biodiversity Development Assessment Report (ELA 2022) was updated to reflect the increased impact to these MNES. Consistent with the Biodiversity Offsets Scheme, credits would be retired to offset impacts. Under the BOS, *Pteropus poliocephalus* (Grey-headed Flying-fox) is listed as a dual credit species. The species is listed as an ecosystem credit species for foraging habitat, and a species credit species for breeding habitat

(camps). The additional impacts to Grey-headed Flying-fox are unlikely to constitute a significant impact to the species. No breeding habitat would be affected, and the foraging habitat to be removed is unlikely to be relied upon by the species. The Grey-headed Flying-fox would utilise a range of foraging resources in the locality and within 20 km of their camps. The habitat to be removed would not fragment or isolate areas of foraging habitat across the landscape, or fragment a camp from foraging habitat.

Table 1: Credit requirement consistent with the Biodiversity Offsets Scheme

| MNES | Associated PCT | Previously assessed impact (ha) | Additional direct impact (ha) | Credits required (additional direct impact) |
|---|---|---------------------------------|-------------------------------|---|
| Cumberland Shale Plains Woodland and Shale Gravel Transition Forest | 849 Grey Box – Forest Red Gum grassy open woodland on flats of the Cumberland Plain, Sydney Basin Bioregion | 0.73 | 1.17 | 37 |
| Grey-headed Flying-fox | n/a | 0.73 | 1.17 | Offset as an ecosystem credit species concurrently with PCT 849 offsets |

Conclusion

Frasers Property are proposing to upgrade the Rooty Hill Road South and Church Street intersection which runs immediately adjacent to the current boundary of the proposed action area. Although the action remains substantially the same, road upgrades were not described as part of the action. Therefore, this variation request has been submitted. The road upgrade is necessary to facilitate safe vehicular and pedestrian access to the proposed business hub. Following extensive consultation with TfNSW and Blacktown City Council and attempts to avoid and minimise impacts to biodiversity values, a four-way intersection was deemed necessary.

To construct the proposed road upgrade, Frasers are proposing to increase impacts to Cumberland Shale Plains Woodland and Shale Gravel Transition Forest and Grey-headed Flying-fox habitat by 0.44 ha (Figure 2). To offset impacts, credits will be secured and retired consistent with the BAM.

Regards,



Alex Gorey
Senior Ecologist and BAM Accredited Assessor #22003

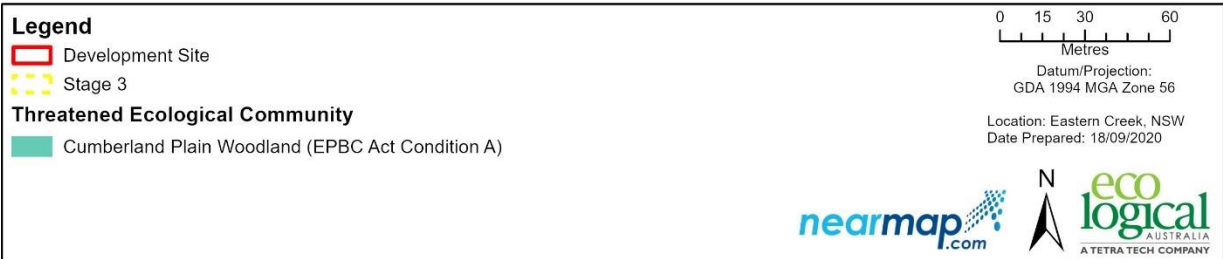


Figure 1: Assessed development footprint and impacts to Cumberland Shale Plains Woodland and Shale Gravel Transition Forest



Figure 2: Assessed impacts and additional impacts to facilitate the proposed road upgrade