



Office of
Environment
& Heritage

Your reference: SSD4978
Our reference: DOC14/133706
Contact: Richard Bonner, 9995 6917

Mr Carl Dumbleton
Senior Planner, Mining Projects
NSW Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Mr Dumbleton

I refer to your email of 9 July 2014, seeking comments from the Office of Environment and Heritage (OEH) on the Tinda Creek Sand Extraction State Significant Development (SSD 4978) proposal.

OEH has reviewed the Environment Impact Statement prepared for the proposal and provides the attached comments in relation to biodiversity and Aboriginal cultural heritage.

Please contact Richard Bonner, Conservation Planning Officer, on 9995 6917 should you wish to discuss this advice.

Yours sincerely

S. Harrison 26/08/14

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney Region
Regional Operations

Office of Environment and Heritage (OEH) comments on the Tinda Creek Sand Extraction State Significant Development proposal

Biodiversity

Adequacy of Assessment

The Environmental Impact Statement (EIS) states that no Endangered Ecological Communities (EECs) were identified within the project area. However, the Ecological Assessment (EA) confirms the 4.6ha of Mellong Sandmass Sedgeland within the project area conforms to the description of Sydney Hinterland Sandstone Upland Swamp in the referenced *Native Vegetation of Yengo and Parr Reserves and Surrounds* (DEC 2008) study. This vegetation community is included in the Coastal Upland Swamp in the Sydney Basin Bioregion EEC. All (or some) of this EEC vegetation will be impacted by the proposal. This has not been recognised in the EIS.

The EA referenced *Native Vegetation of Yengo and Parr Reserves and Surrounds* study also shows an area of Hunter Range Flats Paperbark Thicket vegetation community on the western boundary of the project area. This community is equivalent to the River-flat Eucalypt Forest on Coastal Floodplains EEC which may be impacted by the proposal. The EA maps this area as the non-EEC Mellong Sandmass Swamp Woodland (figure 4.1). The EIS should have included reference to the mapping of this area as an EEC and provided justification as to why it was considered not to be the listed community. In the absence of this discussion, the Department of Planning and Environment (DPE) will need to determine if there is adequate information in the EIS to be satisfied that the vegetation mapping is correct and that the EEC is not present.

OEH recommends the presence of EECs within the project area be reviewed and, if necessary, be appropriately addressed in a revised biodiversity assessment and offsetting package to address any unavoidable biodiversity impacts of the development.

In addition, OEH notes the statement at 4.9 of the EIS that extraction operations will be setback from the Greater Blue Mountains World Heritage Area (GBMWH) by 'a minimum of 237 m' and Yengo National Park (YNP) by '40m if domain 7 is quarried' which does not correlate with figure 4.1 indicating a 14m setback. The potential impacts on the values of the GBMWH and YNP arising from this significantly reduced setback have not been addressed in the EIS.

OEH recommends the setback of proposed operations from the GBMWH and YNP be clarified. Extractive operations should be restricted by way of an appropriate buffer to ensure the values of these areas are not impacted.

Biodiversity offsetting strategy

OEH notes that the Director General's Environmental Assessment Requirements (DGRs) for this development stipulate that 'a comprehensive offset strategy to ensure the development ***maintains or improves*** the terrestrial and aquatic biodiversity values of the region in the medium to long term' (emphasis added).

In detailing the offset strategy, however, the EA advises it has been 'prepared in accordance with Scenario 2 Mitigated Net Loss (Tier 3) as described in OEH's submission to inform the DGRs on 10 December 2012'. Not only is this interpretation of OEH's advice to the then Department of Planning and Infrastructure (DoPI) incorrect but it is also in potential conflict with the DGRs which are a legal requirement of an EIS. OEH's December 2012 advice detailed two approaches that could be used to assess biodiversity impacts: the BioBanking Assessment Method (Scenario 1) or a detailed biodiversity assessment (Scenario 2). OEH's advice did not advocate a 'Mitigated Net Loss (Tier 3)' biodiversity outcome for this proposal.

OEH's preferred biodiversity outcome would be achieved when all impacts are fully offset with no variation of offset type and any 'red flag' areas identified using the Biobanking Assessment Methodology (BBAM) are fully protected. This equates to a Tier 1 outcome under the OEI Interim Policy referenced in the EA at 7.1.2.1.

OEH recommends the DPE clarifies its requirements in relation to the biodiversity DGR for this project. Should the DPE consider its requirement to 'maintain or improve' equates to a Tier 1 outcome then the proposed and alternative offset area proposals will need to be revised as neither comply in their current form.

Despite the comments above, OEH considers the alternative offset area has some merit when compared to the proposed offset area as it provides for a larger and more contiguous offset area and protects more area of EEC vegetation and a greater number of *Grevillea parviflora* ssp. *Parviflora*. However, the quarrying of domain 7 would result in a greater area of EEC vegetation being impacted. A number of other issues would also need to be addressed to further develop an appropriate offset package. These include the management of potential edge impacts and the mechanisms necessary to restore and protect in the long-term the ecological values of the offset area.

OEH would be pleased to assist in the further development of an appropriate biodiversity offset package.

Aboriginal cultural heritage

OEH considers the *Assessment for Aboriginal Cultural Heritage* report presents a thorough investigation of the likely resources and Aboriginal occupation anticipated within the project area and surrounding land including the likely archaeological potential. OEH understands that although there has been no subsurface investigation to test the predictive model and level of disturbance, the arguments presented in the Assessment that the project area is more likely to have been used as a resource gathering area as opposed to a camping location appears justified.

OEH supports the proponent's application of the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* for this project. OEH is satisfied with the standard of the Assessment. It is noted that mitigation measures are provided should the project cause harm to the Tinda Creek Artefact Scatter 1 AHIMS #45-2-2545 (currently located within proposed Domain 3). Management mechanisms to address Aboriginal objects unexpectedly identified during extraction works are also noted and considered appropriate.